

# Rules

## RULE

**Department of Economic Development  
Office of the Secretary  
and  
Office of the Governor  
Office of Financial Institutions**

Capital Companies Tax Credit Program (CAPCO)  
(LAC 10:XV.303-313 and 317-320)

The Louisiana Department of Economic Development (herein referred to as DED) and the Office of Financial Institutions (herein referred to as OFI), pursuant to the authority of R.S. 51:1921 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby promulgates the following Rule to amend the Capital Companies Tax Credit Program. The proposed amendments are being promulgated to incorporate legislative changes and provide guidance with respect to changes in policy.

### Title 10

## FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

### Part XV. Other Regulated Entities

#### Chapter 3. Capital Companies Tax Credit Program

#### §303. Definitions Provided by Rule

- A. - A. *Affiliate and/or Affiliated Company*.b.i. ...
- ii. when used with respect to a qualified Louisiana business, *affiliate* means a legal entity that directly, or indirectly, through one or more intermediaries, *controls*, is *controlled* by, or is under common control with, a qualified Louisiana business;
- c. for purposes of R.S. 22:1068(E)(2)(c), a *group of affiliates* shall mean a person and not less than all *affiliates* of such person;
- d. the test relating to being under common control with will not apply to investments closed prior to the effective date of this Rule or to any qualified Louisiana business in which the investing certified Louisiana capital company has invested in prior to the effective date of this Rule;
- e. Part ii of this Section shall not include as an affiliate those legal entities that are *controlled* by either an angel or institutional investor.

*Allowable Organization Costs?* repealed.

\* \* \*

*Angel Investor in a Qualified Louisiana Business?* for purposes of excluding certain companies from being an affiliate of a qualified Louisiana business, an *angel investor* shall be defined as any investor that has provided early state funds to a business unless such investor is, the founder, or a family member of the founder, of the qualified Louisiana business.

\* \* \*

*Capitalization?* for purposes of initial certification, pursuant to R.S. 51:1925(B):

a. *Generally Accepted Accounting Principles (GAAP) Capital?* common stock, preferred stock, general partnership interests, limited partnership interests, surplus and any other equivalent ownership interest, all of which shall be exchanged for cash; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; less all organization costs;

b. - c. ...

\* \* \*

*Change of Control?* for purposes of LAC 10:XV.319A shall mean:

a. a change in beneficial ownership of 50 percent or more of the outstanding shares of the CAPCO or 50 percent or more of the combined voting power of the CAPCO; provided that any transfer to a person or entity who was a shareholder as of the later of the certification date for the CAPCO or the date of the CAPCO's last notification under LAC 10:XV.319A for whom the Office of Financial Institutions has received a current Biographical Affidavit and conducted a current background check shall be disregarded; or

b. individuals who constitute the voting power of the Board of Directors, Board of Managers or other governing board of the CAPCO as of the later of the CAPCO's certification date or the date of the CAPCO's last notification under LAC 10:XV.319A cease to comprise more than 50 percent of the voting power of such Board of Directors, Board of Managers, or other board; or

c. a change in the general partner or manager of the CAPCO or a *change of control* with respect to such general partner or manager; or

d. any merger or consolidation if a *change of control* has occurred based upon the surviving entity being considered to be a continuation of the CAPCO that was the party to the merger or consolidation transaction.

\* \* \*

#### *Control?*

a. Solely for purposes of determining whether a qualified Louisiana business *controls*, is *controlled* by, or is under common *control* with another person, or if a person is an associate of a CAPCO, *control* means:

a.i. - b.ii. ...

*Date Certified, Newly Certified or Designated as a Certified Louisiana Capital Company?* the date that the commissioner notifies a CAPCO of its certification.

*Date on Which an Investment Pool Transaction Closes?* date that a CAPCO designates, and notifies the commissioner of such designated date, that it has received an investment of certified capital in an investment pool. For purposes of this definition, an investment pool transaction may not close prior to:

a. - b. ...

\* \* \*

*Headquartered in Louisiana?* at least 80 percent of the total employees of such business shall be domiciled in the

state of Louisiana and that at least 80 percent of the payroll of such business be paid to such employees. In analyzing whether the business has a substantial portion of its assets located in Louisiana, Part a. of the definition of *Operates Primarily in Louisiana* shall be utilized in making the determination. The application of this definition shall only be made to investments made from pools of capital certified in 2002 or thereafter.

*Institutional Investor?* shall include venture capital companies, investment companies, mutual funds, brokerage companies, insurance companies, pension funds, investment banks, Small Business Investment Companies licensed by the U.S. Small Business Administration under the Small Business Investment Act of 1958, CAPCOs, BIDCOs, and any other corporation, limited liability company, or partnership with total assets in excess of \$5,000,000 formed for the purpose of making investment in multiple businesses. Examples:

a. A company founded by an individual seeks additional capital to continue product development. A high net worth individual or an *institutional investor* reviews the investment and elects to provide capital. Following this investment, the company is able to develop its product to a certain stage. Now, the company is in need of a larger investment to bring the product to market and a certified Louisiana capital company desires to invest. Under this scenario, neither the net worth nor the net income of the angel or *institutional investor* or any companies *controlled* by the angel or *institutional investor* would be combined with the qualified Louisiana business in determining if the limits found in R.S. 51:1923(13)(a) would be exceeded.

b. A high net worth individual controls one or more companies that are not considered qualified Louisiana businesses. This high net worth individual founds another company and provides the capital for startup and product development and now seeks funding by a certified Louisiana capital company. Under this scenario, the founder of the company seeking *investment* would not be considered an angel or *institutional investor*.

*Investment?*

a. - a.ii. ...

iii. notwithstanding the above, an *investment* shall also include debt instruments which are obligations of the investing insurance company to a certified Louisiana capital company. Such debt instruments shall be converted into cash at a rate of not less than 10 percent per year from the date of the *investment*;

iv. - iv.(a). ...

(b). invested in qualified *investments* made subsequent to the *investment* date of the *investment* pool; or

(c). a combination of §303.A.*Investment*.a.iv.(a) and (b).

b.i. an *Investment* furthers economic development within Louisiana. If the proceeds from an investment are used in a manner consistent with representations contained in the affidavit required to be obtained from the qualified Louisiana business prior to an investment in the business and the documented use of such proceeds promote Louisiana economic development. Proceeds shall be determined to promote Louisiana economic development if more than 50 percent of the proceeds derived from the investment are used

by the qualified Louisiana business for two or more of the following purposes:

(a). to hire significantly more Louisiana employees;

(b). to directly purchase or lease furniture, fixtures, land or equipment that will be used in the Louisiana operations of the business or to construct or expand production or operating facilities located in Louisiana. This does not include the purchase of these assets as part of a buyout of a company;

(c). to purchase inventory for resale from Louisiana-based operations or outlets;

(d). to capitalize a business in order for the business to secure future debt financing to support the Louisiana operations of the business;

(e). to increase or preserve working capital and/or cash flows for Louisiana operations of the business. However, except as allowed in Subclause (d) above, this does not include those *investments* whereby the proceeds of the *investment* will be utilized to refinance existing debt of the business;

(f). to preserve or expand Louisiana corporate headquarters operations. *Preserve* means a company that is in danger of failing or contemplating a move out-of-state;

(g). to support research and development or technological development within Louisiana;

(h). to fund start-up businesses that will operate primarily in Louisiana; or

(i). to provide for an additional economic benefit not otherwise described above. However, before this purpose may be used as a basis for a determination that the *investment* furthers economic development within Louisiana, the CAPCO shall request in writing and the commissioner shall issue a written response to the CAPCO that, based upon relevant facts and circumstances, the proposed *investment* will further Louisiana economic purposes and result in a significant net benefit to the state. The commissioner's letter opinion shall be issued within 30 days of the request by the CAPCO, and shall be part of the annual review required to be performed by the department and billed according to provisions contained in §307.D. However, upon written notification to the CAPCO, the 30-day period can be extended by the commissioner if he determines that the initial information submitted is insufficient or incomplete for such determination;

ii. an *investment* by a CAPCO in interim construction financing shall not be considered to further economic development within Louisiana, unless the same CAPCO also provides the debt funding that refinances the interim funding upon completion and the permanent financing is determined to further economic development within Louisiana;

iii. for purposes of (b)(i)(e) of this definition, an *investment* by a CAPCO to refinance interim debt of a qualified Louisiana business will be considered to further economic development within Louisiana if the commitment to fund the *investment* by the CAPCO occurs before the funding of the interim debt.

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*Operates Primarily in Louisiana?* a business *operates primarily in Louisiana* if, at the time of the initial *investment*, the business is in good standing with the

Louisiana Secretary of State, if applicable, and meets one or more of the following:

a. - d. ...

NOTE: For *investments* made utilizing certified capital raised during 2002 or 2003, Subparagraph c is superseded by R.S. 51:1923(13)(a)(i) which requires that at least 80 percent of the total employees of such business shall be domiciled in the state of Louisiana and that at least 80 percent of the payroll of such business be paid to such employees. Therefore, in addition to meeting this new 80 percent test, in order for the business to be deemed to operate primarily in Louisiana, one or more of Subparagraphs a, b or d must be met.

\* \* \*

*Performs Substantially All of Its Production in Louisiana?* business performs substantially all of its production in Louisiana if:

a. - b. ...

NOTE: For *investments* made utilizing certified capital raised during 2002 or 2003, R.S. 51:1923(13)(a)(i) adds a new requirement that at least 80 percent of the total employees of such business shall be domiciled in the state of Louisiana and that at least 80 percent of the payroll of such business be paid to such employees. Therefore, in addition to meeting this new 80 percent test, in order for the business to be deemed to perform substantially all of its production in Louisiana, this new 80 percent test must be met in addition to Subparagraphs a and b.

*Permissible Investments?* for purposes of R.S. 51:1926(B), cash deposited with a federally-insured financial institution; certificates of deposit in federally-insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; money market mutual funds or mutual funds that only invest in *permissible investments* of a kind and maturity permitted by this definition; or any other *investments* approved in advance and in writing by the commissioner. All *permissible investments* which are included in the calculation under Subsection a.(iv)(a) of the definition of *Investment* in LAC 10:XV.303 shall have a maturity of two years or less or the terms of the investment instrument shall provide that the principal is repayable to the CAPCO within 10 days following demand by the CAPCO in connection with funding a qualified investment. This limitation on the maturity of an investment shall only apply to *investments* made subsequent to the date of this Rule.

\* \* \*

*Total Certified Capital under Management* for purposes of investment limits, pursuant to R.S. 51:1926(B):

a. *GAAP Capital?* common stock, preferred stock, general partnership interests, limited partnership interests, surplus and other equivalent ownership interests, all of which shall be exchanged for cash and is available for investment in qualified *investments*; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by all organization costs.

b. - c.i. ...

d. The portion of an investment that is guaranteed by the United States Small Business Administration or the United States Department of Agriculture's Business and Industry Guaranteed Loan Program shall be excluded from

the amount of the investment when determining the investment limit pursuant to R.S. 51:1926(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:33 (January 2004).

### **§305. Income and Premium Tax Credits**

A. - B.6. ...

C.1. The total income tax credits granted pursuant to R.S. 51:1924.A in any calendar year shall not result in an additional reduction of total income tax revenues of greater than \$2,000,000 per year.

2. During any calendar year in which this Subsection will limit the amount of certified capital for which income tax credits are allowed, certified capital for which income tax credits are allowed will be allocated among Louisiana certified capital companies. Requests for allocation shall be prepared for filing not later than December first on a form prescribed by the commissioner which form shall include an affidavit by the investor pursuant to which such investor shall become legally bound and irrevocably committed to make an investment of certified capital in a certified Louisiana capital company subject only to receipt of allocation pursuant to this Subsection. Any requests for allocation filed with the commissioner before December first of any calendar year shall be deemed to have been filed on December first of such year. Requests for allocation shall be allocated as followed.

a. When aggregate requests for allocation by certified Louisiana capital company groups do not exceed \$5,714,285.71, all requests for allocation shall be approved by the department.

b. When aggregate requests for allocation exceed \$5,714,285.71, each certified Louisiana capital company group shall be entitled to receive an allocation to be calculated by dividing \$5,714,285.71 by the number of certified Louisiana capital company groups requesting an allocation. In the event that this allocation results in one or more certified Louisiana capital company groups receiving an allocation in excess of the amount which was requested, the excess shall be reallocated to the remaining certified Louisiana capital company groups on an equal basis until the entirety of the allocation has been fully distributed.

3. ...

4. Annually within 10 days of December first, the commissioner shall review all requests for allocation of income tax credits and notify the certified Louisiana capital companies of the amount of certified capital for which income tax credits are allowed to the investors in such company. During this 10 day period, each CAPCO or CAPCO group may allow for the substitution of one investor for another investor when the initial investor is unable or unwilling to complete the proposed investment.

5. In the event a certified Louisiana capital company or group does not receive an investment of certified capital

equaling the amount of the allocation made pursuant to Paragraph C.2.b of this Subsection within 10 days of its receipt of notice of such allocation it shall notify OFI within three days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), LR 25:1216 (July 1999), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:35 (January 2004).

### **§307. Application Fees; Other Fees**

A. ...

B. An application fee of \$5,000 shall be submitted with the application. Checks should be payable to the Office of Financial Institutions.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925, 1927 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1133 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

### **§309. Application Process**

A. A company organized and existing under the laws of Louisiana, created for the purpose of making qualified investments, as required in R.S. 51:1921 et seq., shall make written application for certification to the commissioner on application forms provided by the office.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1133 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

### **§311. Conditions of Certification**

A. - A.1. ...

2. At least 30 days prior to the sale or redemption of stock, partnership interests, other equivalent ownership interests or debentures constituting 10 percent or more of the then outstanding shares, partnership interests, other equivalent ownership interests or debentures, the CAPCO will provide a written notification to the office. Information, as determined by the commissioner, shall be submitted with the notification. If the commissioner does not object to the

notification within 30 days of the receipt, the notification shall be deemed approved.

3. - 8. ...

B.1. If a CAPCO contemplates any public or private securities offerings, prior to the certification of any tax benefits resulting from the certified capital raised through such offerings, the CAPCO shall have a securities attorney provide a written opinion that the company is in compliance with Louisiana securities laws, federal securities laws, and the securities laws of any other states where the offerings have closed. Copies of all offering materials to be used in investor solicitations must be submitted to the office at least 30 days prior to investor solicitation.

2. If a CAPCO seeks to certify capital pursuant to §303.A. *Investment*, the CAPCO shall submit to the commissioner documentation showing the proposed structure in sufficient detail to allow this office to determine that the proposed structure complies with all applicable laws and regulations. This information shall be submitted to the commissioner no later than 30 days prior to a request for certification of capital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), amended, LR 23:1134 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

### **§313. Requirements for Continuance of Certification and Decertification**

A. ...

1. The numerator for the investment pool shall be:

a. 100 percent of the sum of all qualified investments made on or after the investment date of the investment pool that are held for a minimum of one year; and

b. ...

2. For purposes of the calculation of the numerator:

a. no qualified investment may be counted more than once;

b. the date the investment of cash is made determines whether the one-year date is achieved. For multiple fundings, each funding must be held for one year to receive 100 percent treatment. The calculation of the amount of time an investment is held will begin at the time of the investment of cash. Therefore, for multiple funding situations, only those cash investments that have been or are intended to be held for a minimum of one year are eligible for full credit as a qualified investment. All other advances will receive 50 percent credit.

A.3. - B. ...

C.1. Upon voluntary decertification, any investments which received 100 percent treatment and were counted as part of A.1.a above may not be sold for a minimum of one year from the date of funding provided that this requirement shall not apply to:

a. a sale that is executed in connection with a sale of control of a qualified Louisiana business; or

b. the sale of any investment that is publicly traded.

2. At the time of voluntary decertification, the CAPCO may deliver to the Office a letter of credit in form

and substance, and issued by a financial institution, acceptable to the Office. The letter of credit:

- a. shall be payable to the Office as beneficiary;
- b. shall be in a face amount equal to the aggregate value of investments required to be held following voluntary decertification in accordance with C.1 above;
- c. shall provide that the letter of credit is forfeitable in full if the CAPCO fails to comply with the requirements of C.1 above; and

d. may provide for reduction of the face amount of the letter of credit as the holding periods of the investments which are required to be held pursuant to C.1 above exceed one year, provided that the face amount of the letter of credit may never be less than the aggregate value of investments counted as part of A.1.a above which have not yet been held by the CAPCO a minimum of one year.

3. If the CAPCO provides a letter of credit in accordance with C.2 above, the forfeiture of the letter of credit shall constitute an assessment against the CAPCO as the sole remedy for the failure of the CAPCO to comply with the requirements of C.1 above; otherwise, the failure to comply with C.1 above shall be considered a violation of R.S. 51:1926(H)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926, 1929 and 1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1134 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

### **§317. CAPCO Report and Record Requirements**

A. Reporting Requirements. Pursuant to R.S. 51:1926(F)(2), CAPCOs are required to submit to the commissioner reports of selected information for each qualified investment made in the previous calendar year. Senate Concurrent Resolution Number 40 of the 1996 Regular Session also requires that the department determine the economic development impact of the CAPCO Program on the state. In order to provide such a report to the Senate, economic information for each company in which a CAPCO has invested shall be obtained and reported to the commissioner by each CAPCO. Such reports shall be submitted on forms provided or approved by OFI.

B. ...

C.1. Except as provided in this Paragraph 2 of this Subsection C, no information contained in the report of examination may be disclosed to investors or shareholders.

2. The report of examination is the property of the Office of Financial Institutions and is furnished to the CAPCO for use by management and the board of directors/managers of the CAPCO and its parent entities. Therefore, the release of any information contained in the report of examination is considered a violation of R.S. 51:1934.

D. All CAPCOS shall prepare quarterly financial statements which shall include a balance sheet, an income statement, and a statement of cash flows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1135 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004)

### **§319. Change of Control**

A. In the event of a change of control of a certified Louisiana capital company, at least 30 days prior to the effective date, the CAPCO shall provide written notification to the commissioner of the proposed transaction. Unless additional information is required, the commissioner shall review the information submitted and shall issue either an approval or denial of the change of control within 30 days of the receipt of the notification.

B. Information to be included in the notification shall include:

1. a completed biographical and financial statement on each new owner;
2. a copy of the proposed business plan of the new owners covering a three year period;
3. a discussion of the previous experience the proposed owner has in the field of venture capital;
4. a credit report on each new owner;
5. a listing of any changes to the board of directors and/or of the CAPCO;
6. a copy of any legal documents or agreements relating to the transfer, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004).

### **§320. Investment in Approved Funds**

A. Any certified Louisiana capital company that has capital certified pursuant to R.S. 51:1924 for the calendar years 1999 or 2000, and which qualifies for credits pursuant to R.S. 22:1068(E) shall invest an amount, as determined by the secretary, into the following investments:

A.1. - B. ...

C. The capital management fund referred to in Paragraph A.1 shall be managed by a qualified individual or individuals or entity that is managed by a qualified individual or individuals and governed by a board consisting of one representative from each certified Louisiana capital company that has invested in the management fund as required by this Section and the secretary or his designee, who shall act in an advisory capacity only, with the right to attend meetings but with no voting privileges. The governing board of the capital management fund will develop policies for the administration and operation of the capital management fund. Certified Louisiana capital companies investing in such capital management fund, shall share in the profits and losses of such fund in accordance with the documents providing for the creation and organization of the fund. The fund shall submit reports to the secretary, semi-

annually within 30 days of June 30 and December 31. The report shall include information on all investments made by the fund and a copy of the most recent financial statements of the fund and shall be submitted on a form provided by the secretary.

D. - F. ...

G. If a certified Louisiana capital company which is required to invest funds by this Section is also a certified Louisiana capital company described in Paragraph A.2 above, it shall not be required to reinvest part of its certified capital into another certified Louisiana capital company pursuant to the requirements of Paragraph A.2; however, it must still make the investment required by Paragraph A.2.

H. - J. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:675 (May 2001), amended LR 28:989 (May 2002), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004).

Don Hutchinson  
Secretary, DED  
and  
John D. Travis  
Commissioner, OFI

0401#088

## **RULE**

### **Office of the Governor Board of Examiners for New Orleans and Baton Rouge Steamship Pilots**

#### **Enhanced Drug and Alcohol Policy (LAC 46:LXX.Chapter 63)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review (hereinafter "board") has adopted Rules regarding enhancement of current drug and alcohol policies, together with other violations and penalties associated therewith.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXX. River Pilots**

#### **Subpart 7. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots**

#### **Chapter 63. Enhanced Drug and Alcohol Policy**

#### **§6301. Purpose and Policy**

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, the board will maintain and enforce a policy of no tolerance for the violation of its policies, rules and regulations as to those river pilots who pursuant to R.S. 34:1041 et seq. have the duty to pilot sea-going vessels up and down the Mississippi River generally from mile 88 AHP to mile 304 AHP (Latitude 31). These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public

by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board.

B. Further, the Louisiana Legislature formed this board for the additional purpose of establishing rules, regulations and requirements for all NOBRA pilots to establish standards for recommendation by the board to the Governor of the State of Louisiana for such disciplinary matters who may have violated same.

C. The purposes of these rules and regulations are as follows:

1. to enhance general standards of conduct of pilots herein; and

2. for the board to recommend to the Office of the Governor such sanctions as are permitted herein; and

3. to enhance certain minimum standards of conduct relative to alcohol and substance abuse; and

4. to enhance a set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

#### **§6303. Application**

A. The board hereby adopts the following enhanced rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed NOBRA Pilots pursuant to the provisions of R.S. 34:1041 et seq., together with all apprentices and candidates. These rules and regulations are not intended to replace those rules and regulations in existence. Current rules and regulations are not superceded nor replaced. What follows is intended only to enhance and strengthen the existing rules and regulations. Any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current rules and regulations are adopted herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

#### **§6305. Statement of Findings**

A. This board has always had a strong commitment and policy to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes and re-enforces these policies. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug use and abuse. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

B. While the board has no intention of intruding into the private lives of NOBRA pilots, apprentices or candidates, the board does expect that these persons report for work in a fit condition to perform their respective duties. The board recognizes that off-the-job incidents, as well as on-the-job incidents, and involvement with alcohol and drugs can have an impact on the work place and on a river pilot's ability to accomplish the board's goals herein.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

#### **§6307. Authority**

A. As mandated by R.S. 34:1041, these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements of oversight for NOBRA pilots, apprentices and candidates.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

#### **§6309. Definitions**

A. As used in this Chapter, the following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

*Administrative Procedure Act?* (APA) the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

*Alcoholic Beverage/Alcohol?* any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

*Applicant/Candidate?* any person who seeks or is seeking a pilot commission issued herein; also may be used interchangeably with "pilot."

*Application?* the written application supplied by the Board of Examiners to an applicant who desires to become a river pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

*Apprentice?* any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

*Association?* New Orleans-Baton Rouge Steamship Pilot Association.

*Board of Examiners or Board of Review?* the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review, established in R.S. 34:1041 et seq.

*Candidate?* any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

*Drug?* any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

*Gender?* the use of "his" or "her" or any reference to masculinity or femininity are to be used interchangeably.

*NOBRA Pilot or Pilot?* a Mississippi River pilot under the jurisdiction of this Commission, as designated in R.S. 34:1041; any person as recommended by the board to the Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

*Prescription Medication?* any medication distributed by or with the authorization of a licensed physician as defined in R.S. 40:961 (30).

*VTC?* Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

*Waterways?* the Mississippi River generally between mile 88 AHP and Mile 304 AHP (Latitude 31).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

#### **§6311. Severability**

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

#### **§6313. Effective Date**

A. These rules and regulations shall be in full force and effective ninety days after final publication in the *Louisiana Register* or as per law, whichever is earlier.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

#### **§6315. Violations of the Policy**

A. Any pilot in violation of these policies, rules or regulations may be referred to the Office of the Governor for reprimand, fine, suspension and/or pilot commission revocation, unless otherwise provided for in this board's rules and regulations.

B. Any pilot in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his or her pilot commission suspended or revoked as provided by R.S. 34:1041 et seq.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:1041 et seq. and Revised Statute Title 49 upon the following:

1. tests positive for any drug;
2. uses any drug in violation of these rules and regulations;
3. refuses to submit to reasonable scientific testing for drugs and/or fails to cooperate fully with the testing procedures and/or in any way attempts to alter the test results;
4. tests positive for alcohol;
5. refuses to submit to a blood alcohol test and/or fails to cooperate fully with the testing procedure and/or in any way attempts to alter the test results.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

#### **§6317. Standards of Safe Pilotage, Grounds for Recommendation to the Governor**

A. Subject to the authority of the Office of the Governor, as per law, this board shall be exclusively and unilaterally be vested with the power and authority to recommend to the



Office of the Governor of Louisiana revocation and/or suspension of all rights and privileges of river pilotage for appointment as a NOBRA Pilot, apprentice, and/or candidate for any violation of the board's drug and alcohol rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

#### **§6319. Effect of Positive Tests/ Disciplinary Action**

A. Any NOBRA pilot, apprentice or candidate with alcohol or a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.

B. Any positive drug screen or positive alcohol test shall be reported to the U.S. Coast Guard and may place the pilot's license in jeopardy. Any NOBRA pilot testing positive for alcohol or a prohibited drug, or residual thereof, shall be removed from duty, pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Any NOBRA pilot who presents a positive alcohol test or drug screen shall be subject to disciplinary action by the Board of Examiners/Board of Review, including the recommendation of revocation or suspension of his commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the Board of Examiners/Board of Review on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use and/or alcohol abuse shall do so at his own personal expense. In addition, the evaluation and treatment facility must be pre-approved by the Board of Examiners/Board of Review.

C. Refusing a drug screen and/or alcohol test, or any attempts at alteration or substitution of samples is considered a violation of these rules. Any NOBRA pilot who refuses to submit to a drug screen and/or alcohol test, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, any refusal to submit to a drug screen and/or alcohol test, failure to cooperate fully with the testing procedures, or any attempt to alter the test results shall be considered by the Board of Examiners/Board of Review as a positive test result. In addition, avoiding the directions of the Board of Examiners/Board of Review after an accident/incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the Board of Examiners/Board of Review to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre-designated by the Board of Examiners/Board of Review. Failure to proceed to the testing facility in the time allowed by the Board of Examiners/Board of Review, which shall be determined at

the time, but shall not exceed three hours, shall be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilot, LR 30:40 (January 2004).

#### **§6321. Prohibitions and Requirements of the Policy**

A. It shall be assumed that a NOBRA pilot, under any influence of alcohol or drugs or who uses alcohol or drugs on the job, has the potential for interfering with his own safety, as well as that of the vessel he is piloting and other vessels in the area, together with danger to related property and personnel. Consistent with existing board practices, such conditions shall be immediate cause for disciplinary action.

B. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:40 (January 2004).

#### **§6323. Drug and Alcohol Testing**

A. All current NOBRA pilots, applicants and/or apprentices shall be subject to testing for the presence of alcohol and the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine, together with any and all other substances as may be tested as ordered by the board.

##### **B. Types of Testing**

1. All pilots shall submit to all reasonable scientific testing for drugs and alcohol when directed by the board. All procedures conducted in connection with such testing shall comply with NOBRA rules and regulations as of this date, and as those that may be amended from time to time.

2. A pilot shall be required to submit a breath test and/or blood test and/or urine test and/or hair specimen test for the presence of drugs and/or alcohol under the following non-exclusive circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required by law and these rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written complaint investigated by this board;

d. when and if any commissioner invokes the provision of any of its rules and regulations, including but not limited to §6111.L;

e. when subject to the random drug or alcohol testing policy as created by the NOBRA Association;

f. when subject to the random drug or alcohol testing policy as created by this board;

g. when the pilot is reasonably suspected of using drugs in violation of this policy;

h. when the pilot is determined to be directly involved in a marine casualty or accident;

i. when there exists reasonable suspicion that a pilot is performing duties while under the influence of alcohol or drugs.



C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of alcohol and/or drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:40 (January 2004).

#### **§6325. Test Results**

A. Any pilot, whose test is confirmed as positive, shall have the right of reasonable immediate access to drug tests records. Any and all pilot requests shall be in writing and delivered to the board without delay.

B. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, as per law, be confidential and disclosed only to this board and the pilot tested, except that:

1. the board may report the results to the Office of the Governor; and

2. in the event that the board determines that a hearing is required pursuant to R.S. 34:1041 et seq., there shall be no requirement of confidentiality in connection with such hearing or release of such medical records or test results, all as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:41 (January 2004).

Henry G. Shows  
Chairman

0401#031

#### **RULE**

##### **Office of the Governor Real Estate Commission**

Transactions (LAC 46:LXVII.3905)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.Real Estate, Chapter 39, Section 3905. The amendment adds language that will provide more definitive instructions for carrying out the requirements of Chapter 39, Section 3905.A.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

##### **Part LXVII. Real Estate**

##### **Subpart 1. Real Estate**

#### **Chapter 39. Presentation of Offers and Counter Offers**

#### **§3905. Transactions**

A. ...

B. It shall be the responsibility of each of the designated agents to make reasonable efforts to contact and notify the designated agent of the other party of the existence of an offer or counter offer.

C.1. It shall be the responsibility of the designated agent who transmits or delivers the written offer or counter offer to document the date, time of day, place, and method of delivery.

2. Such documentation as to the date, time of day, place and method of transmission or delivery of the written offer or counter offer may include, but will not be limited to, annotation by the delivering designated agent, a dated and timed facsimile transmission receipt or a dated and timed electronic mail receipt.

3. Such documentation shall be retained pursuant to 37:1449.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:1087 (July 2003), LR 30:41 (January 2004).

Julius C. Willie  
Executive Director

0401#050

#### **RULE**

##### **Department of Health and Hospitals Board of Medical Examiners**

Acupuncturists' and Acupuncturists' Assistants' Fees  
(LAC 46:XLV.185 and 187)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:1356-1360, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules prescribing the fees payable by acupuncturists and acupuncturists' assistants for the issuance and annual renewal of certification issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter H, §§185 and 187. This Rule is set forth below.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

##### **Part XLV. Medical Professions**

##### **Subpart 1. General**

#### **Chapter 1. Fees and Costs**

#### **Subchapter H. Acupuncturists' and Acupuncturists' Assistants Fees**

#### **§185. Certification**

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:41 (January 2004).

#### **§187. Annual Renewal**

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:41 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#019

## **RULE**

### **Department of Health and Hospitals Board of Medical Examiners**

#### **Athletic Trainers' Fees (LAC 46:XLV.159, 161, 163, 165, 3107, 3129 and 3157)**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3301-3312, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its existing rules prescribing the fees payable for initial certification, annual renewal and temporary permits issued by the board for athletic trainers, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter F, §§159, 161, 163, 165 and Subpart 2, Chapter 31, Subchapters B, §3107, D, §3129 and G, §3157. The rules and amendments are set forth below.

#### **Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLV. Medical Professions Subpart 1. General**

##### **Chapter 1. Fees and Costs**

##### **Subchapter F. Athletic Trainers Fees**

##### **§159. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

##### **§161. Certification, Permits, and Examination**

A. For processing applications for certification as an athletic trainer, a fee of \$125 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

C. For registration for and taking of the certification examination administered by the board, an applicant shall pay the fee that is charged by the entity developing the examination.

D. When an applicant is required by these rules to take the examination administered by the board, the fee prescribed by §161.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

##### **§163. Annual Renewal**

A. For processing an application for annual renewal of an athletic trainer's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

##### **§165. Reinstatement of License**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

#### **Subpart 2. Licensure and Certification**

##### **Chapter 31. Athletic Trainers**

##### **Subchapter B. Requirements and Qualifications for Certification**

##### **§3107. Requirements for Certification**

A. - A.4. ...

5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

##### **Subchapter D. Application**

##### **§3129. Application Procedure**

A. - G. ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:42 (January 2004).

##### **Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement**

##### **§3157. Renewal of Certificate**

A. Every certificate issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with evidence of the qualifications requisite to renewal as specified in §3159 and the applicable renewal fee prescribed in Chapter 1 of these rules.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#020

## **RULE**

### **Department of Health and Hospitals Board of Medical Examiners**

Clinical Exercise Physiologists  
(LAC 46:XLV.221, 223, 225, 3713, and 3743)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3421-3433, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has adopted Rules and amended its existing Rules prescribing the fees payable by clinical exercise physiologists for the issuance and renewal of a license by the board, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter L, §§221, 223, 225, and Subpart 2, Chapter 37, Subchapters C, §3713 and E, §3743. The Rules are set forth below.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

##### **Subpart 1. General**

##### **Chapter 1. Fees and Costs**

##### **Subchapter L. Clinical Exercise Physiologists Fees**

##### **§221. Scope of Subchapter**

A. The Rules of this Subchapter prescribe the fees and costs applicable to the licensing of clinical exercise physiologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

##### **§223. Licenses and Permits**

A. For processing an application for a license as a clinical exercise physiologist, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

##### **§225. Annual Renewal**

A. For processing an application for annual renewal of a license as a clinical exercise physiologist, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

## **Subpart 2. Licensure and Certification**

### **Chapter 37. Clinical Exercise Physiologists**

#### **Subchapter C. Application**

##### **§3713. Application Procedure**

A. - F. ...

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997), amended LR 30:43 (January 2004).

#### **Subchapter E. License Issuance, Expiration, Renewal and Termination**

##### **§3743. Renewal of License**

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a renewal fee as prescribed by Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended 24:1498 (August 1998), LR 30:43 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#021

## **RULE**

### **Department of Health and Hospitals Board of Medical Examiners**

Midwives' Fees  
(LAC 46:XLV.203, 205, 2313 and 2345)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable by midwives for the issuance and renewal of a license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter J, §§203, 205 and Subpart 2, Chapter 23, Subchapters C, §2313 and F, §2345. The Rules are set forth below.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

##### **Subpart 1. General**

##### **Chapter 1. Fees and Costs**

##### **Subchapter J. Midwives' Fees**

##### **§203. Licenses and Permits**

A. For processing an application for a midwifery license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

#### **§205. Renewal**

A. For processing an application for biannual renewal of a midwifery license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

#### **Subpart 2. Licensure and Certification**

#### **Chapter 23. Licensed Midwives**

#### **Subchapter C. Application**

#### **§2313. Application Procedure**

A. - F. ...

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 30:44 (January 2004).

#### **Subchapter F. License Issuance, Termination, Renewal, Reinstatement**

#### **§2345. Renewal of License**

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:44 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#022

#### **RULE**

#### **Department of Health and Hospitals Board of Medical Examiners**

Occupational Therapists', Occupational Therapy Assistants' Fees (LAC 46:XLV.173, 175, 1913 and 1947)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable for the issuance of initial license and annual license renewal

by occupational therapists and occupational therapy assistants, as well as that applicable to temporary permits issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter G, §§173, 175 and Subpart 2, Chapter 19, Subchapters C, §1913 and F, §1947. The Rules are set forth below.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

#### **Subpart 1. General**

#### **Chapter 1. Fees and Costs**

#### **Subchapter G. Occupational Therapists and**

#### **Occupational Therapy Assistants Fees**

#### **§173. Licenses and Permits**

A. For processing an application for an occupational therapist's license a fee of \$150 shall be payable to the board.

B. For processing an application for an occupational therapy assistant's license a fee of \$100 shall be payable to the board.

C. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

#### **§175. Annual Renewal**

A. For processing an application for annual renewal of an occupational therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an occupational therapy assistant's license a fee of \$75 shall be payable to the board.

C. If the application for renewal is received beyond the deadline designated by the board, a late renewal fee of \$35 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

#### **Subpart 2. Licensure and Certification**

#### **Chapter 19. Occupational Therapists and**

#### **Occupational Therapy Assistants**

#### **Subchapter C. Application**

#### **§1913. Application Procedure**

A. - G. ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

## **Subchapter F. License Issuance, Termination, Renewal and Reinstatement**

### **§1947. Renewal of License**

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these Rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:45 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#023

## **RULE**

### **Department of Health and Hospitals Board of Medical Examiners**

#### **Physicians' Fees (LAC 46:XLV.125, 127 and 131)**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270 and R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:953, has amended its Rules prescribing the fees payable by physicians for initial issuance and renewal of medical licensure, as well as those applicable to a graduate education temporary permit, visiting physician permit, short-term residency permit, institutional or temporary permit and intern registration. The Rule amendments are set forth below.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

##### **Subpart 1. General**

#### **Chapter 1. Fees and Costs**

### **Subchapter C. Physicians' and Surgeons' Fees**

#### **§125. Licenses, Permits, and Examination**

A. For processing applications for licensure of the type indicated, the following fees shall be payable to the board.

1. Standard application? \$250
2. Reciprocity application? \$350

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board.

1. Graduate medical education temporary permit? \$200
2. Visiting physician permit? \$100
3. Short-term residency permit? \$100
4. Other institutional or temporary permits? \$100

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:1238 (November 1995), LR 30:45 (January 2004).

### **§127. Postgraduate Education Registration**

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these Rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:45 (January 2004).

### **§131. Annual Renewal**

A. For processing a licensee's annual renewal of license under §417 of these Rules, a fee of \$300 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of \$100 shall be payable to the board.

C. For processing renewal of an institutional or other temporary permit, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:45 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#024

## **RULE**

### **Department of Health and Hospitals Board of Medical Examiners**

#### **Podiatrists' Fees (LAC 46:XLV.139, 141 and 143)**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 37:618, R.S. 37:621-622, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable for initial issuance and renewal of podiatric licensure, as well as those applicable to temporary permits, and issuance of an intern registration. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter D, §§139-143. The Rules are set forth below.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**  
**Part XLV. Medical Professions**  
**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter D. Podiatrists Fees**

**§139. Licenses, Permits, and Examination**

A. For processing an application for licensure as a podiatrist, a fee of \$300 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$100 shall be payable to the board.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

**§141. Annual Renewal**

A. For processing a podiatrist's annual renewal of license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

**§143. Podiatric Postgraduate Education Registration**

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these Rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#025

**RULE**

**Department of Health and Hospitals**  
**Board of Medical Examiners**

Registered Respiratory Therapists' and  
Certified Respiratory Therapists' Fees  
(LAC 46:XLV.193, 195, and 197)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rules prescribing the fees payable by registered respiratory therapists and certified respiratory therapists for the issuance of an initial license, annual license renewal, and a temporary license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter I, §§193, 195 and 197. The Rules are set forth below.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**  
**Part XLV. Medical Professions**  
**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter I. Respiratory Therapists and Respiratory Therapy Technicians**

**§193. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of registered respiratory therapists and certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

**§195. Licenses**

A. For processing an application for licensing a registered respiratory therapist, a fee of \$150 shall be payable to the board.

B. For processing an application for licensing a certified respiratory therapist, a fee of \$100 shall be payable to the board.

C. For processing a temporary license, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

**§197. Annual Renewal**

A. For processing an application for annual renewal of a registered respiratory therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of a certified respiratory therapist's license a fee of \$75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

John B. Bobear, M.D.  
Executive Director

0401#026

**RULE**

**Department of Health and Hospitals**  
**Office of the Secretary**

Admissions Criteria for Inpatient Facilities  
(LAC 48:I.Chapter 16)

Under the authority of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Louisiana Department of Health and Hospitals has adopted the following Rule governing admissions criteria for inpatient

facilities operated by the Department of Health and Hospitals. Each office within the Department of Health and Hospitals that operates inpatient facilities, i.e., Office of the Secretary, Office for Addictive Disorders, Office for Citizens with Developmental Disabilities, and Office of Mental Health, has established admissions criteria included in this Rule.

#### **Title 48**

### **PUBLIC HEALTH? GENERAL**

#### **Part I. General Administration**

##### **Subpart 1. General**

#### **Chapter 16. Admissions Criteria for Inpatient Facilities**

##### **§1601. Purpose and Scope**

A. In accordance with the requirements of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals adopts admission criteria for inpatient facilities operated by the Department of Health and Hospitals. Admission criteria are specific to each DHH Office that operates inpatient facilities as indicated in this Rule. In accordance with R.S. 28:20(B) no person shall be admitted voluntarily, involuntarily, by court order, or by commitment to a department facility unless the person meets the criteria set forth in this Rule and Act 1249.

AUTHORITY NOTE: Promulgated in accordance with RS. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

##### **§1603. Definitions**

*Adult?* anyone age 18 and over.

*Axis I Diagnosis?* a reporting group in the Diagnostic and Statistical Manual for all the various mental disorders or conditions in the Classification except for Personality Disorders and Mental Retardation.

*Child?* anyone under age 18.

*DSM?* the Diagnostic and Statistical Manual that has a multi-axial system that includes an assessment on several axes, each of which refers to a different domain of information that may help the clinician plan treatment and predict outcomes.

*Level of Functioning Scale?* assessment tool that passes defined standards for use as an evaluative tool and is thereby provided for professional use to define the degree to which an individual is capable of accomplishing various skills associated with managing activities of daily living.

*Mental Retardation?* significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period.

*OAD?* the Office for Addictive Disorders in the Department of Health and Hospitals.

*OMH?* the Office of Mental Health in the Department of Health and Hospitals.

*Related Condition?* a severe chronic disability that meets all the following criteria:

1. it is attributable to:
  - a. cerebral palsy or epilepsy; or
  - b. any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally

retarded persons, and requires treatment or services similar to those required for these persons;

2. it is manifested before the person reached age 22;
3. it is likely to continue indefinitely; and
4. it results in substantial functional limitations in three or more of the following areas of major life activity:
  - a. self-care;
  - b. understanding and use of language;
  - c. learning;
  - d. mobility;
  - e. self-direction; or
  - f. capacity for independent living.

*Single Point of Entry (SPOE)?* that process by which an individual is screened by an agent within an Office of Mental Health (OMH) service area who is responsible for certifying that the individual meets the criteria for admission to an OMH inpatient facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

##### **§1605. Inpatient Facilities Operated by the Office of the Secretary**

A. The following admission requirements apply to New Orleans Home and Rehabilitation Center and Villa Feliciana Medical Complex, both of which are long term care facilities operated by the Office of the Secretary.

##### **B. Initial Requirements for Admission Consideration**

1. The person has a medical condition(s) that require the supervision and treatment in a facility that provides 24-hour nursing care.
2. Pre-admission screening procedures for the Medicaid program must be followed to ensure appropriateness of admission.

##### **C. Facilities Admission Criteria:**

1. the person's medical/rehabilitation needs can be met within the resources and staffing available at the facilities;
2. the admission does not exceed the capacity, the services and/or population for which the facility is budgeted and operated; and
3. a means of financing the cost of care for each person admitted is available.

##### **D. Exclusions**

1. Persons who are dangerous to self and others, or who are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

##### **§1607. Inpatient Mental Health Facilities Operated by the Office of Mental Health**

A. In order to be admitted a person must qualify as a candidate for services in an inpatient setting as indicated on a published Level of Functioning Scale or other instrument identified by the Office of Mental Health as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity



and reliability. The person must also meet the standard for inpatient care as specified in the Office of Mental Health Single Point of Entry (SPOE) Admissions Criteria, which is specified in the following.

B. Adult Admission Criteria. At least one criterion from Severity of Illness must be met and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. Patient presents as a danger to self as evidenced by:

- i. a suicide attempt within the past 72 hours; or
- ii. documentation that the patient has a current suicide plan, specific suicide intent, or recurring suicidal ideation; or
- iii. documentation of self-mutilative behavior occurring within the past 72 hours.

b. Patient presents as a danger to others due to a DSM Axis I diagnosis as evidenced by any of the following:

- i. dangerously aggressive behavior during the past seven days due to a DSM Axis I diagnosis; or
- ii. threats to kill or seriously injure another person with the means to carry out the threat and the threatening behavior is due to a DSM Axis I diagnosis; or
- iii. documentation that the patient has a current homicide plan, specific homicidal intent, or recurrent homicidal ideation and this is due to a DSM Axis I diagnosis.

c. Patient is gravely disabled and unable to care for self due to a DSM Axis I diagnosis as evidenced by:

- i. documentation of a serious impairment in function (as compared to others of the same age) in one or more major life roles (school, job, family, interpersonal relations, self-care, etc.) due to a DSM Axis I diagnosis; and
- ii. patient presents with acute onset or acute exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well being is threatened; or
- iii. an inability of the patient to comply with prescribed psychiatric and/or medical health regimens as evidenced by the following:

(a). patient has a history of de-compensation without psychotropic medications and patient refuses to use these medications as an outpatient; or

(b). patient is at risk of health or life due to non-compliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and patient refuses these medical regimens as an outpatient.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

- i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;
- ii. active intervention by a psychiatric team to prevent assaultive behavior;
- iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and
- iv. services provided in the hospital can reasonably be expected to improve the patient's condition or

prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

C. Children's Admission Criteria. At least one criterion from Severity of Illness must be met, and all of the Intensity of Service Criteria must be met.

1. Severity of illness criteria must meet one or more of Subparagraph a, b, or c:

a. the child is a danger to self (Clauses i, ii, iii or iv must exist to meet this criterion):

i. the child has made an attempt to take his/her own life in the last 24 hours. Details of the attempt must be documented; or

ii. the child has demonstrated self-mutilative behavior within the past 24-hours. Details of behavior must be documented; or

iii. the child has a clear plan to seriously harm him/herself, overt suicidal intent, recurrent suicide thoughts, and lethal means available to follow the plan. This information can be from the child or a reliable source. Details of the plan must be documented; or

iv. due to a DSM Axis I diagnosis, the child is in serious danger of dying or sustaining grave bodily injury to him/her self; and

v. it is the judgment of a mental health professional that the child is at significant risk of making a suicide attempt or due to a DSM Axis I diagnosis, is in serious danger of dying or sustaining grave bodily injury to him/herself without immediate inpatient intervention;

b. the child is a danger to others or property due to a DSM Axis I diagnosis as indicated by: (Clauses i, ii, or iii and iv must exist and include the specific DSM criteria that justify this diagnosis):

i. the child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property, which would pose a serious threat of injury, or harm to others within the last 24 hours. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present; or

ii. the child has made threats to kill or seriously injure others or seriously damage property, which would pose a threat of injury or harm to others, and has effective means to carry out the threats. Details of the threats must be documented; or

iii. a mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property. Details must be documented; and

iv. it is the judgment of a mental health professional that the child is at a significant risk of making a homicide attempt or engaging in other seriously aggressive behavior without immediate inpatient intervention;

c. the child is gravely disabled due to a DSM Axis I diagnosis as indicated by (Clauses i, and either ii, iii or iv must exist and include the specific DSM criteria that justify this diagnosis):

i. the child has serious impairment of functioning compared to others of the same age in one or more major life roles (school, family, interpersonal relations, self-care, etc.) Specific descriptions of the following must be documented:

(a). deficits in control, cognition or judgment;  
(b). circumstances resulting from those deficits in self-care, personal safety, social/family functioning, academic or occupational performance;

(c). prognostic indicators which predict the effectiveness of acute treatment; and

ii. severe thought disorganization or clinical deterioration or the acute onset of psychosis has rendered the child unmanageable and unable to cooperate in non-hospital treatment; or

iii. there is a need for medication therapy or complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or non-hospital based regimen, and may require close supervision of medication and/or forced administration of medication; or

iv. a medical condition co-exists with DSM Axis I diagnosis which, if not monitored/treated appropriately, places the child's life or well being at serious risk.

## 2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

D. Exclusionary Criteria-Adult. If one or more of the following is met, admission is denied.

1. Patient has a major medical or surgical illness or injury that would prevent active participation in a psychiatric treatment program (patients must be medically stable).

2. Patient has criminal charges pending and does not have a DSM Axis I diagnosis.

3. Patient has anti-social behaviors that are a danger to others and those anti-social behaviors are characterological rather than due to a DSM Axis I diagnosis.

4. Patient has a DSM Axis II diagnosis of mental retardation without an accompanying DSM Axis I diagnosis.

5. Patient has a Substance Abuse Disorder as defined in DSM and does not otherwise meet the severity of illness and intensity of service criteria.

E. Exclusionary Criteria-Children. If one or more of the following is met, admission is denied.

1. The child has a major medical or surgical illness or injury that prevents active participation in a psychiatric treatment program.

2. The child has criminal charges pending and does not otherwise meet severity of illness and intensity of service criteria.

3. The child has anti-social behaviors that are a danger to others and does not have a DSM Axis I diagnosis.

4. The child has a DSM Axis II diagnosis of mental retardation and does not otherwise meet severity of illness and intensity of service criteria.

5. The child lacks a place to live and/or family supports and does not otherwise meet severity of illness and intensity of service criteria.

6. The child has been suspended or expelled from school and does not otherwise meet severity of illness and intensity of service criteria.

7. The child has a substance abuse disorder as defined in DSM and does not otherwise meet the severity of illness and intensity of service criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

## **§1609. Intermediate Care Facilities/Mental Retardation (ICF/MR) Facilities Operated by the Office of Mental Health**

A. Referral for persons not currently residents of an ICF/MR facility should come through the State Office for Citizens with Developmental Disabilities (OCDD) Regional Office System responsible for serving the individual but referrals from other community sources or the individual's family will also be considered. Persons seeking admission or for whom admission is sought to an ICF/MR facility must meet the following admissions criteria:

1. age 18 years or above;

2. DSM diagnosis of Mental Retardation and/or Developmental Disability;

3. DSM diagnosis of mental illness;

4. can reasonably be expected to benefit from Community Home (CH) active treatment program;

5. must demonstrate compatibility with the physical, cognitive, social and behavioral development exhibited by the individuals in the home where the applicant is to reside and also in the day program as indicated by a published Level of Functioning Scale or other instrument identified by the Office of Mental Health (OMH) as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability;

6. must be certifiable for SSI and Medicaid Services;

7. must demonstrate ability to control self and not present a danger to self or others as evidenced by a lack of suicide attempts, suicide plans or self-injurious behaviors within the last three months, and a lack of aggressive behaviors or threatening behaviors towards others within the last three months; and

8. must volunteer for admission and agree to follow rules and actively participate in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:49 (January 2004).

**§1611. The Office for Citizens with Developmental Disabilities (OCDD)**

A. The following admission requirements apply to the developmental centers and community- homes operated by the OCDD.

1. Initial Requirements for Admission Consideration

a. The person must meet the criteria for participation in the Mental Retardation/Developmental Disabilities (MR/DD) Services System in Louisiana's MR/DD law. The person's generic service plan (Plan of Support) must contain a recommendation for admission to an Intermediate Care Facility for the Mentally Retarded. The plan must also document the team (which includes the individual and/or family) consideration of what meets the individual's needs, and no more, and the most natural living option available, consistent with an individual's community peers.

2. Residential Facilities Admission Criteria

a. The person has mental retardation or a related condition and has additional complex medical or behavioral needs; and

b. the person's programmatic and supervisory needs as established in the person's Individual Program Plan (IPP) can be met within the resources and staffing available at the developmental center or community home; and

c. the person's age and sex as well as physical, cognitive, social and behavioral development are compatible with the individuals currently residing within the developmental center or community home wherein the vacancy exists; and

d. the admission does not exceed the capacity, the services and/or population for which the facility is licensed.

3. Exclusions:

a. persons who cannot benefit from active treatment services in an Intermediate Care Facility for the Mentally Retarded (ICF-MR);

b. persons who have a primary diagnosis of mental illness;

c. persons who are dangerous to self or others, or are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the developmental center or community home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:50 (January 2004).

**§1613. Inpatient Substance Abuse Treatment Programs Operated by the Office for Addictive Disorders**

A. Admissions

1. Admission to primary treatment centers will be from a statewide population.

2. Any client exhibiting major medical symptoms or major psychiatric symptoms, indicating immediate need, will be referred for services of an acute care hospital or acute psychiatric unit. Once stabilized, OAD will evaluate for admission to an inpatient treatment program.

B. Eligibility Criteria

1. The client must have been screened by a single point of entry, which includes:

a. OAD Outpatient or Detoxification Programs or other programs approved by the accepting facility;

b. have a primary diagnosis of no less than alcohol abuse, drug abuse, or compulsive gambling;

c. have a recent history of uncontrollable alcohol or drug use or compulsive gambling and have been unable to remain drug-free through outpatient intervention; or

d. have been unable to access outpatient services due to unavailability related to distance and transportation; and

2. the client shall be involved in an intensive outpatient substance abuse treatment program while awaiting placement in an inpatient facility. If intensive treatment is not available at the referring clinic, the client should be evaluated and provided the maximum level of services available while awaiting admission;

3. the patient who is appropriately admitted to an inpatient program meets specifications in two of the six dimensions, at least one of which is in Dimension 1,2, or 3.

a. Dimension 1: Acute Intoxication and/or Withdrawal. The patient has no signs or symptoms of withdrawal, or his or her withdrawal needs can be safely managed in a inpatient program setting.

b. Dimension 2: Biomedical Conditions and Complications. The patient's status in Dimension 2 is characterized by one of the following.

i. The interaction of the patient's biomedical condition and continued alcohol or other drug use places the patient in imminent danger of serious damage to physical health or concomitant biomedical conditions (such as pregnancy with vaginal bleeding or ruptured membranes).

ii. A current biomedical condition requires 24-hour nursing and medical monitoring or active treatment, but not the full resources of an acute care hospital. The patient who has a biomedical problem that requires a degree of staff attention (such as monitoring of medications or assistance with mobility) that is not available on other inpatient programs is in need of Biomedical enhanced services.

c. Dimension 3: Emotional, Behavioral, or Cognitive Conditions and Complications. Problems in Dimension 3 are not necessary for admission to an inpatient program. However, if any of the Dimension 3 conditions are present, the patient must be admitted to a Dual Diagnosis Enhanced program (depending on his or her level of function, stability, and degree of impairment).

i. The patient's psychiatric condition is unstable. Depression and/or other emotional, behavioral, or cognitive symptoms (which may include compulsive behaviors, suicidal or homicidal ideation with a recent history of attempts but no specific plan, or hallucinations and delusions without acute risk to self or others) are interfering with abstinence, recovery, and stability to such a degree that the patient needs a structured 24-hour, medically monitored (but not medically managed) environment to address recovery efforts; or

ii. the patient exhibits stress behaviors associated with recent or threatened losses in work, family, or social domains, to a degree that his or her ability to manage the

activities of daily living are significantly impaired. The patient thus requires a secure, medically monitored environment in which to address self-care problems (such as those associated with eating, weight loss, sleeplessness or personal hygiene) and to focus on his or her substance abuse or mental health problems; or

iii. the patient has significant functional deficits that require active psychiatric monitoring. They may include-but are not limited to- problems with activities of daily living, problems with self-care, lethality or dangerousness, and problems with social functioning. These deficits may be complicated by problems in Dimensions 2 through 6; or

iv. the patient is at moderate risk of behaviors endangering self, others, or property, and is in imminent danger of relapse (with dangerous emotional, behavioral, or cognitive consequences) without 24-hour support and structure of an inpatient program; or

v. the patient is actively intoxicated, with resulting violent or disruptive behavior that poses imminent danger to self or others; or

vi. the patient has a thought disorder or cognitive limitations that require stabilization but not medical management.

d. Dimension 4: Readiness to Change. The patient's status in Dimension 4 is characterized by one of the following:

i. despite experiencing serious consequences or effects of the addictive disorder or mental health problem, the patient does not accept or relate the addictive disorder to the severity of these problems; or

ii. the patient is in need of intensive motivation strategies, activities, and processes available only in a 24-hour structured, medically monitored setting; or

iii. the patient needs ongoing 24-hour psychiatric monitoring to assure persistence with the treatment regimen and to deal with issues such as ambivalence about compliance with psychiatric medications.

e. Dimension 5: Relapse, Continued Use, or Continued Problem Potential. The patient's status in Dimension 5 is characterized by one of the following:

i. the patient is experiencing acute psychiatric or substance use crisis, marked by intensification of symptoms of his or her addictive or mental disorder (such as difficulty postponing immediate gratification, drug-seeking behavior, or increasing severity of anxiety or depressive symptoms). This situation poses an imminent danger of harm to self or others in the absence of 24-hour monitoring and structured support; or

ii. the patient is experiencing an escalation of relapse behaviors and/or reemergence of acute symptoms. This situation poses an imminent danger of harm to self or others in the absence of the type of 24-hour monitoring and structured support found in a medically monitored setting; or

iii. the modality of treatment or protocols to address relapse (such as aversion therapy and similar behavioral therapy techniques) require that the patient receive care in an inpatient program.

f. Dimension 6: Recovery Environment. The patient's status in Dimension 6 is characterized by one of the following:

i. the patient requires continuous medical monitoring while addressing his or her substance use and/or psychiatric problems because his or her current living situation is characterized by a high risk of initiation or repetition of physical, sexual, or emotional abuse, or substance abuse so endemic that the patient is assessed as being unable to achieve or maintain recovery at a less intensive level of care. For example, because of mania (which is treated with mood stabilizing medications), the patient believes he or she is able to control the people in his or her environment who pose the risk; or

ii. family members or significant others living with the patient are not supportive of his or her recovery goals and are actively sabotaging treatment. This situation requires structured treatment services and relief from the home environment in order for the patient to focus on recovery; or

iii. the patient is unable to cope, for even limited periods of time, outside of 24-hour care. The patient needs staff monitoring to learn to cope with Dimension 6 problems before he or she can be transferred safely to a less intensive setting.

#### C. Incarcerated Individuals

1. Persons referred for inpatient care who are incarcerated at the time of referral must meet the above criteria and be eligible for full release from incarceration within 15 days after the planned admission to an inpatient unit, or otherwise be able to participate in any and all follow-up recovery programs which would be recommended within a continuum of care treatment plan, including aftercare, half-way house, and self-help support groups.

2. Persons being detained in criminal justice programs who are awaiting arraignment, trial or post-trial sentencing must meet the above criteria and have an agreement from the District Attorney, prosecuting attorney, or trial judge.

a. This agreement must be binding on the client and provide the client with assurance of ability to participate in continuum of care as recommended by the treatment team, unless the client violates any judicial agreement, or condition placed upon him and in effect during the term of recommended treatment.

3. Clients are not to be admitted who are subject to return to incarceration during the period of recommended treatment, including after-care, absent a new violation, infraction of probation or condition of suspension, or charge being filed.

#### D. Special Populations

1. Treatment facilities shall make arrangements for the temporary employment of staff/equipment/specialized services which may be reasonably needed in order for the program to adequately serve persons with special needs or physical disabilities, specifically, but not limited to, the hearing and speech impaired.

a. Specialized service arrangements will be within reason and only when similar services are not available through an alternate resource for which the client is eligible and/or entitled. Funding for the specialized service must have prior approval of the Assistant Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:50 (January 2004).

David W. Hood  
Secretary

0401#065

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Mental Health Rehabilitation Program Sanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the July 20, 1998 Rule to revise provisions governing the grounds and levels of sanctions and the notice and appeal procedures for Mental Health Rehabilitation (MHR) agencies. The following provisions supersede, amend, and replace Subsections II.G and X of the July 20, 1998 Rule.

#### I. ...

#### II. Provider Participation

##### A. - F.4.e. ...

##### G. Grounds for Sanctions

1. The following are grounds for the sanctioning of a Mental Health Rehabilitation (MHR) agency:

- a. failure to comply with any and all certification, administrative or operational requirements at all times;
- b. failure to provide the full range of services specified in the service agreement;
- c. failure to uphold patient rights when violations may or could result in harm or injury;
- d. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;
- e. failure to maintain adequate qualified staff to provide necessary services;
- f. failure to adequately document that services that were billed were actually performed;
- g. failure of subcontractors to meet all required standards;
- h. failure to allow entry to the MHR agency or subcontracted agency or access to any requested records during any survey or failure to fully cooperate with a survey or investigation by DHH or its designee;
- i. failure to comply with all reporting requirements in a timely manner;
- j. failure to provide documentation, upon request from DHH, that verifies compliance with any or all requirements as set forth in this Rule;
- k. failure to comply with any or all federal or state regulations or laws applicable to either the Mental Health Rehabilitation Program or the Medical Assistance Program;

l. failure to protect consumers from harmful actions of agency employees; including, but not limited to health and safety, coercion, threat, intimidation, solicitation and harassment;

m. failure to remain fully operational at all times for any reason other than a disaster;

n. if in a one-year period, the frequency, pattern or nature of valid complaints filed against a MHR agency are substantiated;

o. an owner or agency staff knowingly, or with reason to know, makes a false statement of a material fact in the:

- i. application for enrollment;
  - ii. data forms;
  - iii. clinical record;
  - iv. any matter under investigation by the department; or
  - v. certification/recertification process;
- p. if an agency uses false, fraudulent or misleading advertising;
- q. if any MHR agency fails to disclose a conviction for a criminal offense by a person who has ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MHR agency; or

r. if a preponderance of the evidence indicates failure to provide optimum care in accordance with current standards of practice; or

s. if there is reasonable evidence of bribery, solicitation or harassment by any MHR agency staff or subcontractor to use the services of any particular facility.

##### H. Sanctions

1. The following sanctions may be applied to any MHR agency, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Systems (SURS) Rule, LAC 50:I.Chapter 41 (*Louisiana Register, Volume 29, Number 4*).

a. The MHR agency may be given a written notice of deficiencies with the opportunity to submit a written plan of correction within 10 days from receipt of the letter to the Office of Mental Health. The Office of Mental Health has 30 working days from the receipt of the corrective action plan to review this plan and accept, deny or require additional modifications and will notify the provider in writing of its determination. Validation of the implementation of the corrective action plan may include an onsite visit whenever necessary to assure correction of deficiencies. If the agency fails to submit a corrective action plan within 10 days from the receipt of the letter, the department will move to terminate the provider.

b. The MHR agency's staff may be required to complete education and training in MHR policy and billing procedures as well as training relevant to providing quality MHR services.

c. Payments for services rendered may be suspended or withheld until compliance is verified by DHH.

d. The MHR agency may be required to void service logs which would result in recoupment of previous payments.

e. The MHR agency may be terminated from participation in the Medicaid Program.

f. The agency may be terminated as a MHR provider and all authorizations may be canceled. Terminated agencies, including all of their owners, officers, or directors may not reapply for certification as a MHR provider for a period of up to five years. The provider shall cooperate with DHH in assisting the recipient in continuing MHR services with another provider.

g. The agency shall be denied the ability to admit new clients during the appeals process.

h. New requests for authorization may be suspended.

i. The MHR agency's current clients shall be moved to another MHR agency if DHH determines that the health and safety of that agency's clients is being compromised. Clients will have freedom of choice regarding the selection of service providers.

### **III. - VIII. ...**

#### **IX. Notice and Appeal Procedure**

A. An applicant or certificant aggrieved by any action taken by the department pursuant to II(C), II(E) or II(G) may appeal such action by submitting a written request for appeal to the secretary of the department. The request for appeal must be received by the secretary within 30 days after the receipt of the written notification of the department's action and must specify, in detail, the reasons for the appeal and the reasons why the applicant or certificant feels aggrieved by the department's action. All appeals filed pursuant to this Rule shall not be suspensive. Sanctions shall take effect immediately upon notice by the Department of Health and Hospitals. The appeal rights contained in this Rule are the sole MHR appeal rights within the department.

David W. Hood  
Secretary

0401#084

#### **RULE**

##### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

##### **Non-Emergency Medical Transportation Services Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedures for non-emergency medical transportation services by 20 percent of the rate in effect on July 31, 2003. Non-emergency medical transportation provided by friends and family is not included in this reimbursement increase.

Profit-Local Trip  
Capitated Regular-Urban  
Capitated Regular-Rural

Enhanced Capitated->5 Trips Per Week  
Capitated Remote-Rural  
Capitated Wheelchair-Rural  
Capitated Wheelchair-Urban  
Local Profit-Wheelchair  
Local Nonprofit-Wheelchair  
Nonprofit-Local Trip

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood  
Secretary

0401#085

#### **RULE**

##### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

##### **Public Nursing Facilities? Reimbursement Methodology (LAC 50:VII.1309)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities.

#### **Title 50**

#### **PUBLIC HEALTH? MEDICAL ASSISTANCE**

##### **Part VII. Long Term Care Services**

##### **Subpart 1. Nursing Facilities**

##### **Chapter 13. Reimbursement**

##### **§1309. State-Owned or Operated and Nonstate Government-Owned or Operated Facilities**

A. Nonstate government-owned or operated nursing facilities will be paid a prospective reimbursement rate. Each facility will receive a Medicaid base rate calculated in accordance with other sections of this Rule. Nonstate government-owned or operated nursing facilities may also receive a supplemental Medicaid payment on a quarterly basis. The aggregate supplemental payments for these facilities, calculated on a quarterly basis, will be the state's best estimate of what nonstate government-owned or operated facilities would be paid under Medicare's prospective payment system for skilled nursing facilities less the aggregate Medicaid base payments for these facilities. The acuity measurements used in the supplemental Medicaid payment calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to the aggregate supplemental Medicaid payments will be made to account for differences in coverage between the Medicare and Medicaid programs.

B. State-owned or operated nursing facilities will be paid a prospective reimbursement rate. The payment rate for each of these facilities will be the nursing facility's allowable cost from the most recent filed Medicaid cost report trended forward to the midpoint of the rate year.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1476 (June 2002), repromulgated LR 28:1793 (August 2002), amended LR 30:53 (January 2004).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood  
Secretary

0401#087

## **RULE**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Psychiatric Residential Treatment Facilities Licensure (LAC 48:I.Chapter 90)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.Chapter 90 as authorized by R.S. 40:2181-2191. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 48**

#### **PUBLIC HEALTH? GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing**

#### **Chapter 90. Psychiatric Residential Treatment Facilities (under 21)**

#### **Subchapter A. General Provisions**

#### **§9001. Purpose**

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents in Psychiatric Residential Treatment Facilities (PRTFs) participating in the Louisiana Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of residents of PRTFs participating in the Louisiana Medicaid Program.

B. In addition to requirements stated herein, all licensed PRTFs shall comply with applicable local, state, and federal laws and regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004).

#### **§9003. Definitions**

A. The following defines selected terminology used in connection with this Chapter 90.

*Abuse?* any one of the following acts which seriously endangers the physical, mental or emotional health of the resident:

a. infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident;

b. exploitation or overwork of a resident;

c. involvement of the resident in sexual activity constituting a crime under the laws of this state.

*Accreditation?* official notification given the provider of compliance to standards established by either:

a. the Joint Commission on *Accreditation* of Healthcare Organizations;

b. the Commission on *Accreditation* of Rehabilitation Facilities;

c. the Council on *Accreditation* of Services for Families and Resident; or

d. any other comparable nationally recognized accrediting organization.

*Administrator?* (see *chief executive officer*)

*Behavior Management?* techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change fostering the resident's self-control, and to prevent or interrupt a resident's behavior which threatens harm to the resident or others.

*Cessation of Business?* when a PRTF participating in the Louisiana Medicaid Program stops providing services to the community.

*Change of Ownership (CHOW)?* the sale or transfer whether by purchase, lease, gift or otherwise of a PRTF by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a PRTF or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the PRTF.

*Chief Executive Officer (CEO) or Administrator?* the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

*Clinical Director?* the person who has responsibility for the psychiatric aspects of the program and who has to provide full-time coverage on an on-site or on-call basis.

*CMS?* the Centers for Medicare and Medicaid Services, Department of Health and Human Services.

*Core Mental Health Disciplines?* academic training programs in psychiatry, psychology, social work and psychiatric nursing.

*Department?* the Department of Health and Hospitals.

*Discipline?* the ongoing practice of helping residents develop inner control so they can manage their own behavior in an appropriate and acceptable manner.

*Documentation*—written evidence or proof, including signatures of appropriate staff and date, must be maintained on site and available for review.

*DSS?* the Department of Social Services.

*Emergency Safety Intervention?* the use of restraint or seclusion as an immediate response to an emergency safety situation.



*Emergency Safety Situation?* unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an *emergency safety intervention*.

*Governing Body?* the board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct, and functioning of the PRTF.

*Group (or Unit)?* refers to the residents who share a common space and relate to one primary staff person (who may be assisted by others) on a consistent or daily basis.

*HSS?* the Department of Health and Hospitals, Health Standards Section.

*License?* the legal authority to operate as a PRTF participating as a Louisiana Medicaid Program.

*Licensed Mental Health Professional (LMHP)?* an individual who meets one of the following education and experience requirements:

a. a physician duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

b. a psychologist licensed as a practicing psychologist under the provisions of R.S. 28:2351-2370; or

c. a social worker who holds a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended; or

d. a nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing; and

i. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of post-masters supervised experience in the delivery of mental health services; or

ii. has a master's degree in nursing or a mental health-related field with two years of supervised post masters experience in the delivery of mental health services;

e. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115 and has at least two years post master's supervised experience delivering services in the mental health-related field.

*Mechanical Restraint?* any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

*Mental Health Professional (MHP)?* an individual who is supervised by a LMHP and meets the following criteria as documented by the provider:

a. has a Master of Social Work degree; or

b. has a Master of Arts degree, Master of Science degree or a Master of Education degree in a mental health-related field; and

i. has a minimum of 15 hours of graduate level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

*Mental Health-Related Field?* academic training programs based on the principles, teachings, research and body of scientific knowledge of the *core mental health disciplines*. To qualify as a related field, there must be substantial evidence that the academic program has a

curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the *core mental health disciplines*. Programs which may qualify include, but are not limited to, sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling.

*Mental Health Service Delivery Experience?* *mental health service delivery experience* at the professional or paraprofessional level delivered in an organized mental health or psychiatric rehabilitation setting such as a psychiatric hospital, day treatment or mental health case management program or community mental health center.

*Mental Health Specialist (MHS)?* a person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one or more of the following five criteria as documented by the provider:

a. has a Bachelor of Arts degree in a *mental health-related field*; or

b. has a Bachelor of Science degree in a *mental health-related field*; or

c. has a bachelor's degree and is a college student pursuing a graduate degree in a *mental health-related field* and has completed at least two courses in that identified field; or

d. has a high school degree or a GED and has four years experience providing direct services in a mental health, physical health, social services, education or correctional setting.

*Minor?* a *minor* as defined under state law and, for the purpose of this Chapter, includes a resident who has been declared legally incompetent by the applicable state court.

*New Construction?* any of the following started after January 1, 2004:

a. new buildings to be used as a PRTF;

b. additions to existing buildings to be used as a PRTF;

c. conversions of existing buildings or portions thereof for use as a PRTF;

d. alterations other than minor alterations to an existing PRTF.

*OCS?* the Department of Social Services, Office of Community Services.

*OSFM?* the Office of State Fire Marshal.

*OYD?* the Department of Public Safety and Corrections, Office of Youth Development.

*Personal Restraint?* the application of physical force, without the use of any device, for the purpose of restraining the free movement of a resident's body. The term *personal restraint* does not include briefly holding without undue force a resident in order to calm or comfort him/her, or holding a resident's hand to safely escort a resident from one area to another.

*Psychiatric Residential Treatment Facility (PRTF)?* a facility other than a hospital, that provides psychiatric services, as described in 42 CFR Part 441 Subpart D, to individuals under age 21, in a residential setting.

*Restraint?* a *personal restraint*, *mechanical restraint*, or drug used as a *restraint* as defined in this §9003.

*Seclusion?* the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

*Serious Injury?* any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

*Staff?* those individuals with responsibility for managing a resident's health or participating in an *emergency safety intervention* and who are employed by the facility on a full-time, part-time or contract basis.

*Time Out?* the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004).

## **Subchapter B. Licensing**

### **§9013. Licensing Process**

A. Initial Licensing. The Department of Health and Hospitals (DHH) is the only authority for PRTFs participating in the Louisiana Medicaid Program in the State of Louisiana.

1. Any person, organization or corporation desiring to operate a PRTF shall make application to DHH on forms prescribed by the department. Such forms may be obtained from:

Hospital Program Manager  
Department of Health and Hospitals  
Health Standards Section (HSS)  
P.O. Box 3767, Baton Rouge, LA 70821

2. An initial applicant shall as a condition of licensing:

a. submit a completed initial PRTF packet and other required documents, including attestation in writing, that the facility is in compliance with CMS's standards governing the use of restraint and seclusion, as contained in this Chapter 90. This attestation must be signed by the facility administrator;

b. submit the required nonrefundable licensing fees by certified check or money order. No application will be reviewed until payment of the application fee. Except for good cause shown, the applicant must complete all requirements of the application process within 90 days of initial submission of the application material. Upon 10 days prior notice, any incomplete or inactive applications shall be closed. A new application will be accepted only when accompanied by a nonrefundable application fee.

3. When the required documentation for licensing is approved and the building is approved for occupancy by the OFSM, a survey of the facility by representatives of HSS shall be conducted at the department's discretion to determine if the facility meets the standards set forth in this Chapter 90.

4. No new PRTF, except one that is accredited and is licensed by DSS as a controlled intensive care facility or unit, shall accept residents until the PRTF has written approval and/or a license issued by HSS.

5. No licensed bed shall be placed in a room that does not meet all resident room licensing criteria and which has not been previously approved by HSS.

## **B. Issuance of License**

1. The agency shall have authority to issue two licenses as described below.

a. Full License-issued only to those PRTFs that are in substantial compliance with these licensure regulations governing PRTFs. The license shall be issued by the department for a period of not more than 12 months for the premises named in the application, as determined by the department.

b. If a PRTF is not in substantial compliance with these licensure regulations, the department may issue a provisional license up to a period of six months if there is no immediate and serious threat to the health and safety of residents.

2. The PRTF license is not assignable or transferable and shall be immediately void if a PRTF ceases to operate or if its ownership changes.

C. Licensing Renewal. Licenses must be renewed at least annually. A PRTF seeking renewal of its license shall:

1. complete all forms and return them to the department at least 15 days prior to the expiration date of their current license;

2. submit the annual fees or the amounts so specified by state law. All fees shall be submitted by certified check or money order and are nonrefundable. All state-owned facilities are exempt from fees;

3. the renewal packet shall be sent by the department to the PRTF 45 days prior to the expiration of their license. The packet shall contain all forms required for renewal of the license;

4. the PRTF shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department.

D. Display of License. The current license shall be displayed in a conspicuous place in the PRTF at all times.

## **E. Increases in Capacity**

1. The PRTF will notify the department in writing 14 days prior to an increase in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 plus \$5 per licensed unit being added or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

4. At the discretion of the department, signed and dated attestations in compliance with these standards may be accepted in lieu of an on-site survey.

5. Written approval of the increase in capacity must be obtained before residents can be admitted to these additions.

## **F. Decrease in Capacity**

1. The PRTF will notify the department in writing 14 days prior to the decrease in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

G Individual licenses shall not be required for separate buildings and services located on the same or adjoining grounds or attached to the main PRTF if they are operated as an integrated service of the PRTF.

H. Duplicate and Replacement Licenses. A \$5 processing fee, or the amount so specified by state law in the future, shall be submitted by the PRTF for issuing a duplicate facility license with no changes.

I. When changes to the license, such as a name change, address change or bed reduction are requested in writing by the PRTF, a fee of \$25 or the amounts so specified by state law in the future, shall be submitted.

J. Facility within a Facility

1. If more than one health care provider occupies the same building, premises, or physical location:

a. all treatment facilities and administrative offices of one health care provider shall be clearly separated from any treatment facilities or administrative offices of any other health care provider located in and/or on the same building, premises or physical location by a clearly delineated and cognizable boundary;

b. treatment facilities shall include, but not be limited to, recipient beds, wings and operating rooms;

c. administrative offices shall include, but not be limited to, record rooms and personnel offices;

d. there shall be clearly identifiable and distinguishable signage;

e. if more than one health care provider occupies the same building, premises or physical location, each such health care provider shall have its own entrance. The separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to one health care provider. Nothing prohibits a health care provider occupying the same building, premises or physical location as another health care provider from utilizing the entrance, hallway, stairs, elevators or escalators of another health care provider to provide access to its separate entrance;

f. staff of the PRTF within a hospital shall not be co-mingled with the staff of the host hospital for the delivery of services within any given shift.

K. Change of Ownership

1. Examples of Actions Which Constitute a Change of Ownership

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

b. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

c. Partnership. In the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

d. Leasing. The lease of all or part of the provider facility constitutes a change of ownership of the leased portion.

2. No later than 15 days after the effective date of the CHOW, the prospective owner(s) or provider representative shall submit to the department a completed application for PRTF licensing, and the bill of sale.

L. Fire Protection. All PRTFs shall comply with the Rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal, including handicapped accessibility requirements. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a valid inspection report from the Office of State Fire Marshal stating that the applicant is complying with their provisions.

1. Prior to new construction, additions, conversions or major alterations, PRTFs shall submit construction documents (see Subsection N, Plan Review) to the OSFM for review. All PRTFs shall submit in writing to the OSFM request for an occupancy review for Life Safety Code. This submission is to request the occupancy type they are requesting. PRTFs requesting to be reviewed and approved as a residential board and care facility by OFSM shall not have exit doors and doors of egress locked. PRTFs that are reviewed and approved as limited care facilities may be permitted to have locked doors after an appeal with OFSM.

M. Sanitation and Resident Safety. The PRTF shall comply with the Rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health (OPH). It shall be the primary responsibility of the OPH to determine if applicants are complying with those requirements. No initial license shall be issued without the applicant furnishing a certificate from OPH stating that the applicant is complying with their provisions. A provisional license may be issued to the applicant if OPH issues the applicant a conditional certificate.

N. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OFSM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

1. Submission Plans

a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OFSM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the DHH Division of Engineering and Architectural Services.

ii. One set of the final construction documents shall be submitted to DHH Division of Engineering and Architectural Services along with the appropriate review fee and a "plan review application form" for approval.

b. Applicable Projects. Construction documents require approval for the following type of projects:

i. new construction;

ii. new hospitals;

iii. changes in service(s)/hospital type;

iv. major alterations.

c. Design Criteria. The project shall be designed in accordance with the following criteria:

i. the current edition of *NFPA 101-Life Safety Code*;

ii. the latest adopted edition of the *International Building Code*;

iii. the *American with Disabilities Act? Accessibility Guidelines for Buildings and Facilities (ADAAG)*, current edition;

iii. the current Louisiana Department of Health and Hospitals' *Licensure Standards for Psychiatric Residential Treatment Facilities*;

iv. The latest adopted edition of the *Louisiana State Plumbing Code*.

d. Construction Document Preparation

i. Construction documents submitted to DHH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

ii. Construction documents submitted shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

- (a). site plans;
- (b). floor plan(s). These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;
- (c). building elevations;
- (d). room finish, door, and window schedules;
- (e). details pertaining to ADA requirements;
- (f). specifications for materials;
- (g). an additional set of basic preliminary type,

legible site plan and floor plans in either 8-1/2 x 11; 8-1/2 x 14 or 11 x 17 format. (These are for use by DHH in doing the final inspection of the facility and should include legible names).

2. Waivers

a. The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural Services. The facility must demonstrate how patient safety and quality of care offered is not comprised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of service. DHH will make a written determination of the requests. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:56 (January 2004).

**§9015. Psychiatric Residential Treatment Facility Closure**

A. A cessation of business is deemed to be effective with the date on which the PRTF stopped providing services to the community as a Louisiana Medicaid Program.

1. The PRTF must notify the department in writing 30 days prior to the effective date of closure.

2. The PRTF shall submit a written plan for the disposition of resident's clinical records for approval by the department. The plan shall include the following:

a. provisions that comply with state laws on storage, maintenance, access and confidentiality of the closed PRTF's resident medical records;

b. an appointed custodian who shall provide physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction;

c. public notice on access in the newspaper, with the largest circulation, in close proximity of the closing PRTF, at least 15 days before the effective date of closure;

d. the effective date of closure.

3. The PRTF must return the original license to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:58 (January 2004).

**§9017. Denial, Revocation or Non-Renewal of License and Appeal Procedure**

A. When a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of residents, the department can deny the application, revoke the license, or refuse to renew the license.

B. The department may deny an application for a license, or refuse to renew a license or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with the PRTF licensure regulations;

2. failure to provide therapeutic residential intervention services essential to the care of emotionally disturbed residents;

3. failure to uphold patient rights whereby violations may result in harm or injury;

4. failure of agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to health and safety, coercion, threat, intimidation and harassment;

5. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

6. failure to maintain staff adequate to provide necessary services to current active residents;

7. failure to employ qualified personnel;

8. failure to remain fully operational at any time for any reason other than a disaster;

9. failure to submit fees including but not limited to annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by DHH;

10. failure to allow entry to the PRTF or access to any requested records during any survey;

11. failure to protect patients from unsafe skilled and/or unskilled care by any person employed by the agency;

12. failure of the agency to correct violations after being issued a provisional license;

13. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

- a. application for licensure;
- b. data forms;
- c. clinical record;

- d. matters under investigation by the department;
- e. information submitted for reimbursement from any payment source;
- f. the use of false, fraudulent or misleading advertising;
- g. that the agency staff misrepresented or was fraudulent in conducting agency business;
- h. convictions of a felony by an owner, administrator, or clinical director as shown by a certified copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers;

14. failure to comply with all reporting requirements in a timely manner; and

15. at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm.

C. If an agency's license, whether full or provisional, is revoked, or denied renewal, and the applicant or licensee does not request an administrative reconsideration of the violation(s) which support the department's actions and/or does not appeal such action, the facility must cease operation on the effective date of the action.

D. Notice and Appeal Procedure. The applicant or licensee shall receive 30 days notice in writing of the decision and the grounds for such proposed action.

E. Administrative Reconsideration. The applicant or licensee may request an administrative reconsideration of the violation(s) which support the department's actions. This reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the actions taken. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the agency submits to the department at the time of the agency's request for reconsideration. Correction of a violation shall not be a basis for reconsideration. This is not a formal hearing. Oral presentations can be made by the department's spokesperson(s) and the agency's spokesperson(s). This process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the agency.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an administrative reconsideration and the department's decision is affirmed, and the applicant or licensee does not appeal such action, the facility must cease operation on the effective date of the designated official's decision to support the department's actions.

F. Appeal Process. Upon refusal of DHH to grant a license as provided in the current state statutes, or upon revocation or suspension of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the

notification of the refusal, revocation, suspension of a license or imposition of a fine.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an appeal of the department's action and the result of the appeal supports the department's action, the facility must cease operation on the effective date of the designated official's decision to support the department's action.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:58 (January 2004).

### **Subchapter C. Organization and Administration**

#### **§9027. General**

A. Purpose and Organizational Structure. The purpose of the PRTF shall be clearly defined in a statement filed with the department. The statement includes the:

1. program philosophy;
2. program goals and objectives;
3. ages, sex and characteristics of residents accepted for care;
4. geographical area served;
5. types of services provided;
6. description of admission policies; and
7. needs, problems, situations or patterns best addressed by the provider's program.

B. House Rules. The provider shall have a clearly written list of Rules governing conduct for residents in care and shall document that these Rules are made available to each staff member, resident, and where appropriate, the resident's parent(s) or legal guardian(s).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:59 (January 2004).

#### **§9029. Governing Body**

A. The PRTF must have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body shall:

1. establish PRTF-wide policy;
2. adopt bylaws;
3. appoint a chief executive officer or administrator;
4. designate a psychiatrist who is either board-eligible or certified in child psychiatry as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full-time coverage on an on-site or on-call basis;
5. maintain quality of care; and
6. provide an overall institutional plan and budget.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all PRTF personnel.

E. Representation at Hearings. The PRTF shall, when required by law, have a representative present at all judicial,

educational, or administrative hearings that address the status of a resident in the care of the provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:59 (January 2004).

### **§9031. Administrative Policy and Records**

A. Policy shall be clearly written, current, and available for residents, parents or custodians, staff, and licensing staff to review.

B. Policy shall be reviewed annually by the governing board.

C. Policy shall include, but is not limited to, areas governing:

1. admission and discharge;
2. personnel;
3. volunteers;
4. grievance procedures;
5. behavior management;
6. use of restraint and seclusion;
7. mandatory reporting of abuse;
8. administering medication;
9. confidentiality of records;
10. participation of residents in activities related to fundraising and publicity;
11. participation of residents in research projects;
12. the photographing and audio or audio-visual recording of residents; and
13. emergency procedures.

#### **D. Admission Policy**

1. The PRTF shall:
  - a. only accept residents for placement from the parent(s), legal guardian(s), custodial agency or a court of competent jurisdiction;
  - b. not admit more residents into care than the number specified on the provider's license;
  - c. ensure that the resident, the resident's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

2. Notification of Facility Policy. At admission, the facility must:

- a. inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the program;
- b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;
- c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff must file this acknowledgment in the resident's record; and
- d. provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

i. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

3. Intake Evaluation. The PRTF shall accept a resident into care only when a current diagnostic evaluation, not over one 1 year old, has been completed.

a. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the recipient's situation and reflect the need for services of a PRTF. Each medical evaluation must include:

- i. diagnoses;
- ii. summary of medical findings;
- iii. medical history;
- iv. mental and physical functional capacity;
- v. prognosis; and
- vi. physician's recommendations.

#### **E. Behavior Management**

1. The PRTF shall develop and maintain a written behavior management policy which includes:

- a. goals and purposes of the behavior management program;
- b. methods of behavior management;
- c. a list of staff authorized to administer the behavior management policy; and
- d. methods of monitoring and documenting the use of the behavior management policy.

2. Prohibitions. The facility policy shall prohibit:

- a. shaking, striking, spanking or other cruel treatment;
- b. harsh, humiliating, cruel, abusive or degrading language;
- c. denial of food or sleep;
- d. work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;
- e. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;
- f. use of chemical agents, including tear gas, mace, or similar agents;
- g. extreme physical exercise;
- h. one resident punishing another resident;
- i. group punishment; and
- j. violating a resident's rights.

3. The PRTF must satisfy all requirements contained in this Chapter regarding the use of restraint or seclusion, including application of time out.

#### **F. Resident Abuse**

1. The provider shall have comprehensive written procedures concerning resident abuse including:

- a. a description of ongoing communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, and mandated reporting requirements to the Office of Community Services Resident Protection Agency;
- b. a procedure for disciplining staff members who abuse or neglect a resident;
- c. procedures for insuring that the staff member involved in suspected resident abuse or neglect does not work directly with the resident involved or any other resident in the program until the investigation is complete.

2. Any case of suspected resident abuse or neglect shall be reported immediately to the HSS and, unless prohibited by state law, the state-designated protection and advocacy system.

3. Staff must report any case of suspected resident abuse or neglect to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report must include:

- a. the name of the resident involved in the suspected resident abuse or neglect;
- b. a description of the suspected resident abuse or neglect;
- c. date and time the suspected abuse or neglect occurred;
- d. steps taken to investigate abuse and neglect; and
- e. action taken as a result of the incident.

4. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff must document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record.

G Reporting of Serious Occurrences. The facility must report each serious occurrence to both HSS and, unless prohibited by state law, the state-designated protection and advocacy system. Serious occurrences that must be reported include a resident's death or a serious injury to a resident.

1. Staff must report any serious occurrence involving a resident to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility must conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff must document in the resident's record that the serious occurrence was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

4. Reporting of Deaths. In addition to the reporting requirements contained in Paragraphs 1-4 of this Subsection, facilities must report the death of any resident to the CMS regional office. The staff must:

- a. report the death of any resident to the CMS regional office by no later than close of business the next business day after the resident's death;

- b. document in the resident's record that the death was reported to the CMS regional office.

H. Fundraising and Publicity. The PRTF shall have a written policy regarding participation of residents in activities related to fundraising and publicity. Consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

I. The PRTF shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of residents.

1. The written consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained before the resident is photographed or recorded for research or program publicity purposes.

2. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the resident.

J. Research. The PRTF shall have written policies regarding the participation of residents in research projects. No resident shall participate in any research project without the express written consent of the resident and the resident's parent(s) or legal guardian(s).

K. Administrative Records

1. The records and reports to be maintained at the facility and available for survey staff to review are:

- a. resident's clinical record;
- b. personnel records;
- c. criminal history investigation records;
- d. orientation and training hour records;
- e. menus of food served to residents;
- f. fire drill reports acceptable to the OFSM as defined by the most current adopted edition of the *NFPA 101, Life Safety Code*;
- g. schedules of planned recreational, leisure or physical exercise activities;
- h. all leases, contracts and purchase-of-service agreements to which the provider is a party;
- i. all written agreements with appropriately qualified professionals, or state agencies, for required professional services or resources not available from employees of the provider;
- j. written policies and procedures governing all aspects of the provider's activities to include:
  - i. behavior management;
  - ii. emergency evacuation;
  - iii. smoking policy.

L. Clinical Record. Information obtained by the department from any applicant or licensee regarding residents, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

1. The PRTF shall ensure the confidentiality of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations (Title 45, Part 164, Subpart E of the *Code of Federal Regulations*) and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA privacy regulations. Information from, or copies of records may be released only



to authorized individuals, and the PRTF must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. The provider shall have written procedures for the maintenance and security of clinical records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

b. Employees of the PRTF shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

c. When the resident is of majority age and noninterdicted, the provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

d. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams, authorized state and federal agencies.

e. The provider shall, upon written authorization from the resident or his/her parent(s) or legal guardian(s), make available information in the case record to the resident, his counsel or the resident's parent(s) or legal guardian(s).

f. If, in the professional judgment of the clinical director, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

g. The provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the facility's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her parent(s) or legal guardian(s).

2. Retention. PRTF records shall be retained by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a resident is discharged.

a. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of five years from the date a resident is discharged. Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

i. an attending or consulting physician of the resident;

ii. the resident or someone acting legally in his/her behalf;

iii. legal counsel for a party having an interest affected by the resident's medical records.

3. The written record for each resident shall include:

a. administrative, treatment and educational data from the time of admission until the time the resident leaves the facility, including intake evaluation notes and physician progress notes;

b. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address and telephone number of parent(s) or legal guardian(s) (if different from resident's), sex, race, religion, birth date and birthplace of the resident;

c. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

d. placement agreement;

e. resident's history including educational background, employment record, prior medical history and prior placement history;

f. a copy of the resident's individual service plan and any modifications to that plan;

g. progress reports;

h. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

i. reports of any resident's grievances and the conclusions or dispositions of these reports. If the resident's grievance was in writing, a copy of the written grievance shall be included;

j. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

k. a summary of attendance and leaves from the facility;

l. written notes from providers of professional or specialized services; and

m. discharge summary at the time of discharge.

4. All resident's records shall be available for inspection by the department.

#### M. Quality Assessment and Improvement

1. The governing body shall ensure that there is an effective, written, ongoing, facility-wide program designed to assess and improve the quality of resident care.

2. There shall be a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation and improvement activities. All organized services related to resident care, including services furnished by a contractor, shall be evaluated. The services provided by each LMHP shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

3. Assessment of quality shall address:

a. resident care problems;

b. cause of problems;

c. documented corrective actions; and

d. monitoring or follow-up to determine effectiveness of the corrective actions taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:60 (January 2004).

### **§9033. Notifications**

A. The facility shall comply with the notification requirements as outlined in this §9033.

1. The facility shall notify the department on the next working day in the event of:

- a. temporary or permanent closing of the facility due to natural or man-made disasters;
- b. a change in the administrator and/or clinical director;
- c. damage to the premises of the facility caused by fire, accident, or other elements that seriously affects the provision of services;

2. If a resident is absent without permission, the resident's parents or custodians are to be notified immediately.

B. The facility shall comply with the notification requirements as outlined in §9033 regarding:

1. any case of suspected resident abuse or neglect;
2. each serious occurrence; and
3. the death of a resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004).

## **Subchapter D. Human Resources**

### **§9043. Personnel**

A. Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.

1. The PRTF shall have:

- a. a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer;
- b. written personnel policies and written job descriptions for each staff position;
- c. written employee grievance procedures; and
- d. written nondiscrimination policy that shall ensure that the provider does not discriminate in the employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

2. Staff Medical Requirement

a. The PRTF shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of PRTF personnel.

b. The PRTF shall have policies and procedures and require all personnel to immediately report any signs or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other residents or personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004).

### **§9045. Personnel Qualifications**

A. Employment Requirements. Staff shall meet the requirements outlined in this Subsection.

1. The chief executive officer (CEO) or administrator shall be qualified by an advanced degree from an accredited college or university in a mental health-related field, with at least five years of related experience.

2. The program manager shall be a LMHP with at least five years related direct service or administrative experience.

3. The clinical director shall be a psychiatrist who is either board-eligible or certified in child psychiatry, with experience appropriate to the level and intensity of services and the population to be served.

a. The governing body of the provider shall designate a psychiatrist as the clinical director.

4. Psychological services shall be provided by or supervised by a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience.

5. A registered nurse must be licensed to practice nursing by the Louisiana State Board of Nursing.

6. The physician who assumes 24-hour on-call medical responsibility shall be a board-certified physician.

### **B. Staffing Definitions**

1. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

2. All staff qualified, eligible and employed prior to January 1, 2004, may continue to provide services with the facility employing them. If any individual on staff changes facilities, the new staff requirements must be met.

### **C. Criminal History Investigation and References**

1. The PRTF shall arrange, prior to employment, for a criminal history investigation, as required by R.S. 15:587.1. for:

- a. each applicant for employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program;
- b. others who have unsupervised access to children, such as volunteers, contracted staff, or janitors; and
- c. adults, including providers' spouses or adult children, who live in the facility.

2. Exceptions. Criminal history investigations are not required for:

- a. staff who move to a new facility operated by the same organization;
- b. parent volunteers who transport children on an irregular basis if the facility staff are present with children at all times;
- c. contracted staff who provide transportation, lessons, or other services if the facility staff are present with children at all times; and
- d. providers' children who become adults, age 18, during continuous residence at the licensed facility.

3. Staff criminal history investigations shall be maintained in a confidential manner, separate from the individual's personnel record.

D. Prohibitions

1. The facility is restricted from knowingly employing a person who:

- a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:
  - i. any criminal activity involving violence against a person;
  - ii. child abuse or neglect;
  - iii. possession, sale, or distribution of illegal drugs;
  - iv. sexual misconduct and/or is required to register pursuant to the Sex Offenders Registration Act;
  - v. gross irresponsibility or disregard for the safety of others; or

2. The restrictions contained in this Subsection apply to employees and persons who provide services to the facility.

3. Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

4. If a staff member is alleged to have committed an act described in Subsection D.1 of this Section, the accused shall be removed from contact with children until the charges are resolved. However, if criminal charges are filed, the accused shall be removed from contact with children until the charges are resolved.

a. A person who has received a deferred sentence for any charge in Subsection D.1 of this Section shall be removed from contact with children for the duration of the deferment.

E. Orientation. Staff shall receive orientation within 30 days of employment.

1. Staff who will work with residents shall receive orientation before being assigned as the only staff responsible for residents.

2. Orientation includes, but is not limited to:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of child abuse;
- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- j. basic skills required to meet the health needs and problems of the resident;
- k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;
- l. physical restraint which is to include a practice element in the chosen method; and
- m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

3. Orientation may be counted toward the total training hours for the first year.

F. The staff shall meet the following requirements for training.

1. Administrator and Clinical Director. The administrator and clinical director shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position.

2. Training for LMHPs and MHPs (excluding administrator and clinical director). LMHPs, MHPs and MHSs shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position. Content areas include, but are not limited to:

- a. crisis intervention;
- b. child/youth development;
- c. discipline;
- d. stress management;
- e. therapeutic relationship;
- f. therapeutic intervention; and
- g. abuse prevention, detection, and reporting.

3. All staff shall receive at least 40 hours of training, in addition to orientation training, during the first year of employment.

4. The facility must require staff to have ongoing education, training and demonstrated knowledge of:

- a. techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations;
- b. the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations; and
- c. the safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress or injury in residents who are restrained or in seclusion.

5. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, is required.

6. Individuals who are qualified by education, training, and experience must provide staff training.

7. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

8. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

9. All training programs and materials used by the facility must be available for review by CMS and HSS.

G Staff Evaluation. The provider shall complete an annual performance evaluation of all staff members. For any person who interacts with residents, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004).

### **§9047. Personnel Responsibilities**

A. The PRTF must meet minimum licensure requirements for staffing, staff qualifications and staffing ratios.

1. A PRTF that serves individuals from special risk populations shall modify staffing patterns to fit their increased needs.

2. The PRTF shall ensure that an adequate number of qualified staff members are present with the residents as necessary to ensure the health, safety and well-being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the PRTF, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents.

3. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

4. The PRTF shall make sufficient provisions for housekeeping and maintenance to ensure that staff is able to adequately perform direct care functions.

B. Staffing Requirements. The PRTF shall have the clinical leadership and sufficient staff on duty to meet the 24-hour, seven day per week treatment needs of recipients and shall establish policies, contracts and practices to assure:

1. availability of adequate psychiatric services to meet the following requirements:

a. provide medical oversight of all of the clinical aspects of care, and provide 24-hour, seven days per week psychiatric on-call coverage;

b. assess each resident's medication and treatment needs including administration of medication; prescribe medications or otherwise assure the case management and consultation services are provided to obtain prescriptions, and prescribed therapeutic modalities to achieve the resident's individual treatment plan's goals; and

c. participate in the facility's treatment plan team and Quality Management process;

2. sufficient supervision of all residents 24 hours a day.

C. The facility shall maintain a minimum ratio of one staff person for two residents (1:2) during awake hours.

D. The facility shall maintain a minimum ratio of one staff person for three residents (1:3) during sleeping hours. Staff shall always be awake while on duty.

E. At a minimum the following staff positions are required. However, the same person may occupy both the administrator/director position and the program manager position if the individual meets the qualifications for both positions.

1. Chief Executive Officer (CEO) or Administrator? responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

2. Program Manager? assists the chief executive officer (CEO) or administrator in the management of individual programs, the supervision of direct service workers, and/or the management of administrative programs.

### **3. Clinical Director**

a. The governing body of the provider shall designate a psychiatrist as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full time coverage on an on-site or on-call basis.

b. The designated psychiatrist shall provide a monthly minimum of one hour of on-site clinical direction per resident.

c. The designated psychiatrist shall monitor and evaluate the quality and appropriateness of services and treatment provided by the facility's direct care staff.

4. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs whose care specialization is consistent with the following duties and requirements of a PRTF:

a. evaluate patients;

b. formulate written individualized treatment plans;

c. provide active treatment measures; and

d. engage in discharge planning.

### **5. A LMHP or MHP shall:**

a. be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. provide a minimum of three individual therapy sessions each week for each resident (a minimum weekly total of 120 minutes);

c. provide a minimum of two group therapy sessions per week for each resident;

d. have a maximum caseload not to exceed 12 residents.

6. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of a PRTF.

7. There shall be at least one LMHP or MHP supervisor for every nine staff members.

8. Each resident must have a minimum of one face-to-face contact with a psychiatrist each month, and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

9. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings.

10. Depending on the needs of the residents, the PRTF shall directly provide or arrange for the services of qualified professionals and specialists, including persons as necessary from the following areas:

- a. medicine and dentistry;
- b. nursing;
- c. disabilities;
- d. speech, occupational and physical therapies; and
- e. recreation.

11. The PRTF shall provide or have available a therapeutic activities program.

a. The program must be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

b. The number of qualified therapists, support personnel and consultants shall be adequate to provide comprehensive therapeutic activities consistent with each patient's treatment plan.

12. Nursing services shall be provided by or supervised by a registered nurse.

a. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each patient's treatment plan.

b. The PRTF shall ensure the on-site availability of a registered nurse 24 hours per day, seven days per week.

c. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the resident's care and accepted standards of practice.

13. A physician shall assume 24-hour on-call medical responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:65 (January 2004).

#### **§9049. Personnel Records**

A. The facility shall maintain on file a written personnel record for each employee working at the facility, which shall be kept for at least one year following an employee's separation from employment. The personnel record shall include:

1. an application, résumé, or staff information sheet that documents qualifications for the position;
2. any health records required by the facility;
3. annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
4. date of employment; and
5. date and reason for leaving employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

#### **§9051. Volunteers**

A. If a facility uses volunteers, the facility shall have a current, written volunteer policy.

B. Volunteers shall receive orientation before having contact with residents.

C. Volunteers shall work under the direct supervision of a paid staff member. They shall never be left alone or in charge of a resident or group of residents without a paid staff member present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

### **Subchapter E. Physical Environment**

#### **§9061. General Provisions**

A. The PRTF shall be constructed, arranged and maintained to ensure the safety and well being of the resident.

##### **B. Buildings**

1. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

2. The PRTF shall maintain PRTF-wide ventilation, lighting and temperature controls.

3. There shall be a policy regarding the provision of services during any period in which the supply of electricity, natural gas, water and fuel is temporarily disrupted.

4. Doors leading into a facility or unit may be locked only in the direction of ingress.

5. Doors in the line of egress shall not be locked. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

#### **§9063. Interior Space**

A. The arrangement, appearance and furnishing of all interior areas of the facility shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

C. Each living unit of a facility shall contain a space for the free and informal use of the residents. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

D. A facility shall have a minimum of 60 square feet of floor area per resident in living areas accessible to the residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

##### **E. Resident Bed Rooms**

1. Single rooms must contain at least 120 square feet and multi-bed rooms shall contain at least 100 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. Any resident room shall not contain more than two beds. Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

a. Any PRFT applying for licensure and constructed after the effective date of the licensing regulations must comply with the requirement that each resident room shall not contain more than two beds.

2. There shall be at least 3 feet between beds.

3. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of residents.

4. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for

resident use on each resident floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and residents on each unit.

5. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

6. The provider shall not use any room that does not have a window as a bedroom space.

7. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident.

8. Each resident shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the resident.

9. There shall be separate sleeping quarters for males and females.

#### F. Dining Areas

1. The facility shall have dining areas that permit residents, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

#### G. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to resident care needs.

a. Bathrooms shall be so placed as to allow access without disturbing other residents during sleeping hours.

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless residents are individually given such items. Residents shall be provided individual items such as hair brushes and toothbrushes.

c. Tubs and showers shall have slip proof surfaces.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless the residents in care require assistance.

3. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

#### H. Kitchens

1. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving, storage and clean up of all meals regularly served to all of the residents and staff. All equipment shall be maintained in proper working order.

2. The provider shall ensure that all dishes, cups and glasses used by residents are free from chips, cracks or other defects and are in sufficient number to accommodate all residents.

#### I. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from resident's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff, excluding, bedrooms and common living areas.

#### J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the

use of residents shall be appropriately designed to suit the size and capabilities of the residents.

2. The provider shall promptly replace or repair broken, run-down or defective furnishings and equipment.

#### K. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

#### L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

#### M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

#### N. Heat

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all residents.

2. The provider shall not use open flame heating equipment or portable electrical heaters.

#### O. Smoking

1. Smoking shall be prohibited in all areas of the PRTF that are heated and air-conditioned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

### **§9065. Facility Exterior**

A. The provider shall maintain all areas of the facility that are accessible to the residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas.

3. Fences shall be in good repair.

4. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect residents.

5. Recreation/playground equipment shall be so located, installed and maintained as to ensure the safety of the residents.

6. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

7. The provider shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:67 (January 2004).

#### **§9067. Equipment**

A. Equipment shall be clean and in good repair for the safety and well-being of the residents.

B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

D. After discharge of a resident, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to residents shall be in a sanitary condition. The mattress, blankets and pillows used for a resident with an infection shall be sanitized in an acceptable manner before they are assigned to another resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:68 (January 2004).

#### **Subchapter F. Facility Operations**

##### **§9077. Safety and Emergency Preparedness**

A. The PRTF shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the PRTF's ability to provide care and treatment or threatens the lives or safety of the PRTF residents and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, DHH and the Office of the State Fire Marshal.

B. As a minimum, the plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bio-terrorism, weapons of mass destruction, labor work stoppage, or industrial or nuclear accidents;

2. emergency procedures for evacuation of the PRTF;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of residents;

4. identification of the facility and an alternate facility to which evacuated residents would be relocated;

5. the estimated number of residents and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany residents in the event of a resident evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The PRTF shall assure that residents receive nursing care throughout the period of evacuation and while being returned to the original PRTF.

D. The provider shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

E. Notification of Emergencies. The provider shall immediately notify the HSS and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

F. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

G. General Safety Practices

1. The provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff and visitors.

3. The provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport residents.

4. The provider shall prohibit the use of candles in resident sleeping areas.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall have procedures to prevent insect and rodent infestation.

7. The provider shall allow residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

H. Transportation

1. The provider shall ensure that each resident is provided with the transportation necessary for implementation of the resident's treatment plan.

2. The provider shall have the means of transporting residents in cases of emergency.

3. The provider shall ensure and document that vehicles used in transporting residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance.

4. Any staff member of the facility or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents shall be currently and appropriately licensed.

5. The provider shall not allow the number of persons in any vehicle used to transport residents to exceed the number of available seats in the vehicle. The provider shall not transport residents in the back or the bed of a truck.



6. The provider shall ensure that residents being transported in the vehicle are properly supervised while in the vehicle and during the trip.

7. All vehicles used for the transportation of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

8. Vehicles used to transport residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents.

9. The provider shall ascertain the nature of any need or problem of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:68 (January 2004).

#### **§9079. Food and Diet**

A. The provider shall ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council.

1. Menus shall be written and approved annually in writing by a registered dietician.

2. The provider shall develop written menus at least one week in advance.

3. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

B. A person designated by the administrator/director shall be responsible for the total food service of the facility. This person shall be responsible for:

1. initiating food orders or requisitions;
2. establishing specifications for food purchases and insuring that such specifications are met;
3. storing and handling of food;
4. food preparation;
5. food serving;
6. orientation, training and supervision of food service personnel;

7. maintaining a current list of residents with special nutritional needs;

8. having an effective method of recording and transmitting diet orders and changes;

9. recording information in the resident's record relating to special nutritional needs;

10. providing information on the resident's diets to the staff.

C. The provider shall ensure that any modified diet for a resident shall be:

1. prescribed by the resident's physician and treatment plan with a record of the prescription kept on file;

2. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

D. The provider shall ensure that a resident is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day.

E. The provider shall ensure that the food provided to a resident in care of the provider is in accord with his/her religious beliefs.

F. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's file.

G. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

H. The provider shall purchase and provide to the residents only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

I. The provider shall ensure that food served to a resident and not consumed is discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:69 (January 2004).

#### **§9081. Health Care and Nursing Services**

##### **A. Health Care**

1. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources outlined in the plan. This plan shall include:

- a. ongoing appraisal of the general health of each resident;
- b. provision of health education, as appropriate; and
- c. provisions for keeping resident's immunizations current.

2. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's parent or legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires treatment from a physician or hospital.

3. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the resident's file.

4. Immunizations. Within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, insuring that the resident has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

##### **B. Nursing Services**

1. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week.

2. Written nursing policies and procedures shall define and describe the resident care provided. There shall be a

written procedure to ensure that all licensed nurses providing care in the PRTF have a valid and current Louisiana license to practice, prior to providing any care.

3. Nursing services are either furnished or supervised and evaluated by a registered nurse.

4. There shall be at least one registered nurse on duty on site at all times.

#### C. Medications

1. All PRTFs that house or use scheduled narcotics shall have a site-specific Louisiana dangerous substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

2. The provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the facility.

3. The provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

4. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

5. The provider shall have a written policy for handling medication taken from the facility by residents on pass.

6. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the resident's file.

7. Proper disposal procedures shall be followed for all discontinued and outdated drugs and containers with worn, illegible or missing labels.

8. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

9. The provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the resident unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medications and discontinuation of

medications when there are no demonstrable benefits to the resident;

d. a description of an ongoing program to inform residents, staff, and where appropriate, resident's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve residents and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication.

10. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

11. Dispensing of prescription legend or controlled substance drugs direct to the public or resident by vending machines is prohibited.

12. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

13. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

14. All drug containers shall be labeled to show at least the resident's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

15. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

16. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician. An entry shall be made in the resident's record.

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:69 (January 2004).

#### **§9083. Delivery of Services**

A. The PRTF shall have an on-going plan, consistent with available community and PRTF resources, to provide or make available social work, psychological and educational services to meet the medically related needs of its residents.

B. Arrangement of Residents into Groups

1. The provider shall arrange residents into groups that effectively address the needs of the residents.

2. All residents shall have an opportunity to build relationships within small groups.

3. Residents shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

4. No more than 15 residents shall be in a group or unit.

5. The PRTF shall have a distinct unit for minors.

6. Groups shall be separated by gender.

C. Individual Plan of Care Developed by a Team of Professionals. The team shall be composed of physicians and other personnel who are employed by, or who provide services to patients in the facility. The team must be capable of assessing the recipient's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the recipient's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives.

1. The team must include, as a minimum, either:

a. a board-certified or board-eligible psychiatrist; or

b. a licensed clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or

c. a physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who has a master's degree in clinical psychology.

2. The team must also include one of the following:

i. a psychiatric social worker;

ii. a registered nurse with specialized training or one year of experience in treating mentally ill individuals;

iii. a licensed occupational therapist with specialized training, or one year of experience in treating mentally ill individuals; or

iv. a psychologist who has a master's degree in clinical psychology.

3. The plan shall be developed in consultation with the recipient and parents, legal guardians, or others in whose care he/she will be released after discharge.

4. Content. The individual plan of care is a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary. The plan must:

a. be based on a diagnostic evaluation that includes examination of the medical, psychosocial, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for PRTF services, including:

i. diagnoses, symptoms, complaints, and complications indicating the need for admission;

ii. a description of the functional level of the individual;

iii. any orders for medication and diet;

iv. restorative, social and rehabilitation services;

v. treatment objectives;

vi. an integrated program of therapies, activities, and experiences designed to meet the objectives;

vii. plans for continued care, as appropriate; and

viii. post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge.

5. The plan of care must be reviewed every 30 days or as often as necessary by the team of professionals.

D. The provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

1. are adequately qualified and, where appropriate, currently licensed or certified according to state or federal law;

2. have adequate space, facilities and privacy;

3. have appropriate equipment;

4. have adequate supplies;

5. have appropriate resources.

E. Discharge Planning. The PRTF shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. Each resident's record shall be annotated with a note regarding the nature of post PRTF care arrangements. Discharge planning shall be initiated in a timely manner. Residents, along with necessary medical information (e.g., the resident's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or services, as needed, for follow-up or ancillary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:70 (January 2004).

#### **§9085. Resident Rights and Grievance Procedure**

A. Every resident shall have the following rights, none of which shall be abridged by the PRTF or any of its staff. The PRTF administrator shall be responsible for developing and implementing policies to protect resident rights and to respond to questions and grievances pertaining to resident rights. These rights shall include at least the following:

1. every resident, or his/her designated representative, shall whenever possible, be informed of the resident's rights and responsibilities in advance of furnishing or discontinuing resident care;

2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the PRTF;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the resident and the PRTF's health care personnel;

6. the right to participate in the development and implementation of his/her plan of care;

7. every resident or his/her representative (as allowed by state law) has the right to make informed decisions regarding his/her care;

8. the resident's rights include being informed of his/her health status, and being involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent resident in accordance with appropriate laws and regulations. The resident may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed if the PRTF has authorized other health care and/or educational institutions to participate in the resident's treatment. The resident shall also have a right to know the identity and function of these institutions;

11. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the resident's discharge from the PRTF. The resident shall also have the right to receive assistance from the physician and appropriate PRTF staff in arranging for required follow-up care after discharge;

12. the right to consult freely and privately with his/her parent(s) or legal guardian(s);

13. the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing;

14. the right to make complaints without fear of reprisal;

15. the opportunity for telephone communication;

16. the right to send and receive mail;

17. the right to possess and use personal money and belongings, including personal clothing;

18. the right to visit or be visited by family and friends subject only to reasonable Rules and to any specific restrictions in the resident's treatment plan. Special restrictions shall be imposed only to prevent serious harm to the resident. The reasons for any special restrictions shall be recorded in the resident's treatment plan;

19. the right to have the individual resident's medical records, including all computerized medical information, kept confidential;

20. the right to access information contained in his/her medical records within a reasonable time frame;

21. the right to be free from all forms of abuse and harassment;

22. the right to receive care in a safe setting;

23. the right to be informed in writing about the PRTF's policies and procedures for initiation, review and resolution of resident complaints;

24. the provider shall ensure that each resident has access to appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning;

25. the provider shall have a written description regarding the involvement of the resident in work including:

a. description of any unpaid tasks required of the resident;

b. description of any paid work assignments including the pay scales for such assignments;

c. description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws;

e. all work assignments shall be in accordance with the resident's treatment plan;

f. the provider shall assign as unpaid work for the resident only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the

resident might reasonably be expected to receive for similar work in outside employment;

26. the provider shall have a written plan for insuring that a range of indoor and outdoor recreational and leisure opportunities are provided for residents. Such opportunities shall be based on both the individual interests and needs of the resident and the composition of the living group;

a. the provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to residents;

b. any restrictions of recreational and leisure opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions;

27. every resident shall be permitted to attend religious services in accordance with his/her faith. Residents shall not be forced to attend religious services;

28. the provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

a. hygiene and grooming;

b. laundry and maintenance of clothing;

c. appropriate social skills;

d. housekeeping;

e. budgeting and shopping;

f. cooking; and

g. punctuality, attendance and other employment related matters;

29. the provider shall ensure services in the following areas to meet the specialized needs of the resident:

a. physical/occupational therapy;

b. speech pathology and audiology;

c. psychological and psychiatric services; and

d. social work services;

30. in addition to the rights listed herein, residents have the rights provided in the Louisiana Mental Health Law.

B. Resident rights regarding the use of restraint or seclusion. In addition to the resident rights listed above in this §9085, every resident shall have the following rights regarding the use of restraint or seclusion in the PRTF.

#### I. Protection of Residents

a. Restraint and seclusion policy for the protection of residents.

i. Each resident has the right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation.

ii. An order for restraint or seclusion must not be written as a standing order or on an as-needed basis.

iii. Restraint or seclusion must not result in harm or injury to the resident and must be used only:

(a). to ensure the safety of the resident or others during an emergency safety situation; and

(b). until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired;

iv. Restraint and seclusion must not be used simultaneously.

b. Emergency Safety Intervention. An emergency safety intervention must be performed in a manner that is

safe, proportionate, and appropriate to the severity of the behavior, and the resident's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history (including any history of physical or sexual abuse).

2. Orders for the Use of Restraint or Seclusion

a. Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the state and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

b. If the resident's treatment team physician is available, only he/she can order restraint or seclusion. If the resident's treatment team physician is unavailable, the physician covering for the treatment team physician can order restraint or seclusion. The covering physician must meet the same requirements for training and experience described in Subparagraph a. of this Paragraph 2.

c. A physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with the staff.

d. If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by the staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must be available to the staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

e. Each order for restraint or seclusion must:

i. be limited to no longer than the duration of the emergency safety situation; and

ii. under no circumstances exceed four hours for residents ages 18 to 21; two hours for residents ages 9 to 17; or one hour for residents under age 9.

f. Within one hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to:

i. the resident's physical and psychological status;

ii. the resident's behavior;

iii. the appropriateness of the intervention measures; and

iv. any complications resulting from the intervention.

g. Each order for restraint or seclusion must include:

i. the name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion;

ii. the date and time the order was obtained; and

iii. the emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion authorized its use.

h. Staff must document the intervention in the resident's record. That documentation must be completed by the end of the shift in which the intervention occurs. If the intervention does not end during the shift in which it began, documentation must be completed during the shift in which it ends. Documentation must include all of the following:

i. each order for restraint or seclusion as required in Subparagraph g of this Paragraph 2;

ii. the time the emergency safety intervention actually began and ended;

iii. the time and results of the one-hour assessment required in Subparagraph f of this Paragraph 2;

iv. the emergency safety situation that required the resident to be restrained or put in seclusion; and

v. the name of staff involved in the emergency safety intervention.

i. The facility must maintain a record of each emergency safety situation, the interventions used, and their outcomes.

j. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the restraint or seclusion order in the resident's record as soon as possible.

3. Consultation with Treatment Team Physician. If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering physician is in fact the resident's treatment team physician. The person ordering the use of restraint or seclusion must:

a. consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in seclusion; and

b. document in the resident's record the date and time the team physician was consulted.

4. Monitoring of the Resident in and Immediately after Restraint

a. Clinical staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the resident and the safe use of restraint throughout the duration of the emergency safety intervention.

b. If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

c. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency

safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

5. Monitoring of the Resident in and Immediately after Seclusion

a. Clinical staff, trained in the use of emergency safety interventions, must be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the resident in seclusion. Video monitoring does not meet this requirement.

b. A room used for seclusion must:

i. allow staff full view of the resident in all areas of the room; and

ii. be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.

c. If the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

d. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

6. Notification of Parent(s) or Legal Guardian(s). If the resident is a minor as defined in this Chapter:

a. the facility must notify the parent(s) or legal guardian(s) of the resident who has been restrained or placed in seclusion as soon as possible after the initiation of each emergency safety intervention;

b. the facility must document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the date and time of notification and the name of the staff person providing the notification.

7. Time Out Application

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room (exclusionary), or in the area of activity or other residents (inclusionary).

c. Staff must monitor the resident while he/she is in time out.

8. Post Intervention Debriefings

a. Within 24 hours after the use of restraint or seclusion, staff involved in an emergency safety intervention and the resident must have a face-to-face discussion. This discussion must include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff,

the resident, or others that could prevent the future use of restraint or seclusion.

b. Within 24 hours after the use of restraint or seclusion, all staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of:

i. the emergency safety situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention;

ii. alternative techniques that might have prevented the use of the restraint or seclusion;

iii. the procedures, if any, that staff are to implement to prevent any recurrence of the use of restraint or seclusion; and

iv. the outcome of the intervention, including any injuries that may have resulted from the use of restraint or seclusion.

c. Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, names of staff that were excused from the debriefing, and any changes to the resident's treatment plan that resulted from the debriefings.

9. Medical Treatment for Injuries Resulting from an Emergency Safety Intervention

a. Staff must immediately obtain medical treatment from qualified medical personnel for a resident injured as a result of an emergency safety intervention.

b. The psychiatric residential treatment facility must have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that:

i. a resident will be transferred from the facility to a hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

ii. medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with state medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

iii. services are available to each resident 24 hours a day, seven days a week.

c. Staff shall document in the resident's record, all injuries that occur as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

d. Staff involved in an emergency safety intervention that results in an injury to a resident or staff shall meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

C. Grievance Procedure for Residents

1. The provider shall have a written grievance procedure for residents designed to allow residents to make complaints without fear of retaliation.

2. The provider shall document that the resident and the resident's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the resident's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 30:71 (January 2004).

David W. Hood  
Secretary

0401#086

## RULE

### Department of Public Safety and Correction Corrections Services

#### Access to and Release of Active and Inactive Records? Adult (LAC 22:I.101)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals the current LAC 22:I.101, Records of Adult Offenders and Ex-Offenders, in its entirety and adopts LAC 22:I.101, Access to and Release of Active and Inactive Records.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 1. Secretary's Office

#### §101. Access to and Release of Active and Inactive Records

A. Purpose. To establish the secretary's policy and procedures for access to and release of active and inactive inmate records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The assistant secretary/office of adult services, all wardens-adult and the director of probation and parole-adult are responsible for implementing this regulation and conveying its contents to all affected persons.

#### C. Definitions

*Application for Pardon or Parole?* for the purpose of this regulation, an *application for pardon or parole* is defined as any time that an inmate has made an *application for pardon or parole*, (including medical parole) or has been released on diminution of sentence (Good Time Parole Supervision-GTPS).

*Law Enforcement Agencies?* those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation (FBI).

*Sex Offender, Serial Sexual Offender, Sexually Violent Predator, Child Predator?* inmates committed to the Department for a crime listed in R.S. 15:536 and 15:541. (See Paragraph N.1, List of Sex Offenses.)

#### D. Release of Information and Records

1. The pre-sentence investigation report, the pre-parole report, the clemency report, the information and data gathered by the staffs of the Board of Pardons and Board of Parole, the prison record, and any other information obtained by the Boards or Corrections Services, in the discharge of official duties shall be confidential and shall not be subject to public inspection nor be disclosed directly or indirectly to anyone except as in accordance with this regulation.

2. Following an *application for pardon and parole*, all information pertaining to an individual's misconduct while incarcerated, statistical information, information pertaining to disposition of criminal charges and incarcerations, and information of a general nature including an individual's age, offense, date of conviction, length of sentence, any correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, and discharge date shall be released to the general public at any time upon request.

NOTE: This provision shall not apply to any public official correspondence which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, which was received prior to August 15, 1997.

3. An inmate's DOC number and assigned location may be released without restriction.

4. Except as noted below, any communication with the Board of Pardons or Board of Parole urging parole, pardon, clemency, or commutation of sentence or otherwise regarding an inmate shall be deemed a public record and subject to public inspection.

a. Exception. Any letter written by, or on behalf of, any victim of a crime committed by an inmate under consideration for parole, pardon, clemency, or commutation of sentence, or any letter written in opposition to pardon, clemency, or commutation of sentence shall be confidential and shall not be deemed a public record and subject to public inspection. This exception shall not apply to any elected or appointed public official.

5. Information on a particular inmate may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. district attorneys;
- f. law enforcement agencies;

g. Department of Public Safety and Corrections personnel, including legal representatives and student workers;

h. appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information is not reasonably available through any other means; and

i. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of criminal charges, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading (but not copying) of confidential information by the following:

a. social service agencies assisting in the treatment of the inmate or ex-offender; and

b. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve the selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or directly involved in the hiring of, the inmate or ex-offender under the following conditions:

a. it appears that the withholding of the information would be to the inmate's or ex-offender's disadvantage;

b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the inmate or ex-offender;

c. the requested information is not reasonably available through other means; and

d. the inmate or ex-offender has given his written consent to release the information.

NOTE: Each unit will develop and use a "release of information consent form" for this purpose prior to the release of information and a copy will be placed in the inmate's record.

#### E. Release of Information on Sex Offenders

1. In addition to information which may be released pursuant to Subsection D, criminal history record information regarding sex offenders, serial sexual offenders, sexually violent predators and child predators which pertains to a conviction for which an inmate is currently sentenced to the department's custody may be disseminated without restriction.

2. For the purpose of this regulation, criminal history record information includes the following:

a. date and parish of conviction;

b. offense;

c. docket number;

d. sentence; and

e. release dates.

3. A written record pertaining to the dissemination of criminal history record information on sex offenders (see Paragraph N.1, List of Sex Offenses) shall be maintained at the unit level. The record shall contain the following information:

a. to whom the criminal history record information was disseminated;

b. the date the information was disseminated;

c. the individual to whom the information relates;

and

d. a brief description of the information disseminated.

4. The written record pertaining to the dissemination of criminal history record information on sex offenders shall be retained for a period of not less than one year.

#### F. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular inmates should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

#### G. Subpoenaed Records

1. Whenever records of an inmate or ex-offender are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

a. the information is not relevant to the proceedings; or

b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or

c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

H. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting the information.

I. Access and Release of Medical Records. Access to and release of medical records is governed by Health Care Policy No. HC-33 "Inmate Medical Records."

J. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody of the department, the department shall have access to information and records under the control of any state or local agency which are reasonably related to the rehabilitation of the inmate.

K. Inmate Access to Records. Information contained in the inmate's record shall be confidential and shall not be released to the inmate except in accordance with this regulation.

1. An inmate may have access to his Master Prison Record, a sentence computation worksheet, any court documents that are related to the term of his instant incarceration, non-confidential unusual occurrence reports, disciplinary reports, information related to educational achievements and participation.

2. An inmate may view and make notes of his State Police and/or FBI rap sheet, but shall not be given a copy.

3. An inmate shall not have access to another inmate's active or inactive records.

4. The following is a non-exhaustive list of additional information that will not be accessible to the inmate:

a. pre-sentence reports;

b. post-sentence reports;



- c. pre-parole reports;
- d. clemency investigations;
- e. information revealing or tending to reveal the identity of confidential informants;
- f. admission summary;
- g. correspondence from any non-departmental source directed solely to prison officials;
- h. correspondence or inquiries originated by institutional personnel;
- i. investigations conducted by non-departmental agencies, i.e., District Attorney, State Police, FBI, etc.;
- j. investigations conducted by Corrections Services;
- k. non-disciplinary court-related institutional investigations; and
- l. correspondence from victims or witnesses, including Victim Notice and Registration Forms.

5. Each institution shall establish procedures for inmates to follow when requesting copies of documents from their records and the fees charged for such copies.

L. Information Requests. Verbal requests for information are acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

M. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

#### N.1. List of Sex Offenses

- a. 14:41 Rape
- b. 14:42 Aggravated Rape
- c. 14:42.1 Forcible Rape
- d. 14:43 Simple Rape
- e. 14:43.1 Sexual Battery
- f. 14:43.2 Aggravated Sexual Battery
- g. 14:43.3 Oral Sexual Battery
- h. 14:43.5 Intentional Exposure of AIDS Virus
- i. 14:78 Incest
- j. 14:78.1 Aggravated Incest
- k. 14:80 Felony Carnal Knowledge of a Juvenile
- l. 14:80.1 Misdemeanor Carnal Knowledge of a Juvenile
- m. 14:81 Indecent Behavior with Juveniles
- n. 14:81.1 Pornography Involving Juveniles
- o. 14:81.2 Molestation of a Juvenile
- p. 14:89 Crime against Nature
- q. 14:89.1 Aggravated Crime against Nature
- r. 14:92(A)(7) Contributing to the Delinquency of Juvenile
- s. 14:93.5 Sexual Battery of the Infirm
- t. 14:283(E) Video Voyeurism

2. A conviction for any offense provided in the above list includes a conviction for an equivalent offense under the laws of another state.

3. A conviction for the attempt of the above offenses shall be considered as a sex offender for the purpose of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:7, 15:540-542, 15:546-548, 15:549(C), 15:574.12, 15:840.1, C.Cr.P. Art. 877 and 894.1.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Director, LR 2:107 (April 1976), amended by the Department of Public Safety and Corrections, Corrections Services, LR 30:75 (January 2004).

Richard L. Stalder  
Secretary

0401#046

## RULE

### Department of Public Safety and Correction Corrections Services

#### Access to and Release of Active and Inactive Records? Juvenile (LAC 22:I.102)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedure Act, R.S. 49:950, et seq., hereby adopts LAC 22:I.102, Access to and Release of Active and Inactive Records-Juvenile.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 1. Secretary's Office

#### §102. Access to and Release of Active and Inactive Records? Juvenile

A. Purpose. To establish the secretary's policy and procedures for access to and release of records of active and inactive juvenile records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The deputy secretary, assistant secretary of the Office of Youth Development, wardens of juvenile facilities, and the probation and parole program director/juvenile are responsible for implementing this regulation and conveying its contents to all affected persons.

#### C. Definition

*Law Enforcement Agencies?* those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, state attorneys general, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation.

#### D. Release of Information and Records

1. All information obtained on a juvenile shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except in accordance with this regulation. None of the provisions contained herein are intended to restrict the ability of the department to provide any contract facility with full and complete information on any juvenile housed therein.

2. Generally, written consent by the juvenile, parent or guardian or attorney of record is required before a person may be granted access to the juvenile's case files. Access includes viewing the record and receiving copies of documents from a juvenile's record.

3. Release of Initial Documents to Attorney (Initial Contact? No Attorney Client Relationship Yet). Upon receipt

of a completed written consent form executed by the juvenile (see Subsection M), the institution may provide copies of the following information to an attorney who has met with the juvenile and requested information:

- a. JIRMS Master (JPRNMAA);
- b. disciplinary reports for the quarter;
- c. court documents;
- d. time computation worksheet;
- e. custody classification/reclassification for the preceding two quarters;
- f. a listing of programs completed including alcohol/drug abuse education. However, no acknowledgment of the juvenile's alcohol/ drug abuse treatment may be given.

4. Release of Records upon Establishment of Attorney Client Relationship. An attorney client relationship sufficient to allow release of a juvenile's record is established upon the occurrence of the following:

- a. juveniles age 18 and older:
  - i. receipt of a written consent form executed by the juvenile (see Subsection N) of his intent to be represented by the attorney named therein;
- b. juveniles under age 18:
  - i. in order to release information from the record of a juvenile, the institution will require receipt of a written consent form (see Subsection O) executed by the parent/guardian of the juvenile; or
  - c. alternatively, release may also be accomplished through the occurrence of all of the following:
    - i. juvenile has affirmed his intent through execution of a written document to enter into an attorney client relationship with a particular attorney or law firm and a release form is executed by the juvenile which allows general access by the attorney to the juvenile's record (see Subsection N). Additionally, if the juvenile intends to allow release of records pertaining to education, alcohol/drug abuse treatment or HIV/AIDS status, the juvenile must execute a specific confidentiality waiver for each individual category of documents; and
    - ii. receipt by the institution housing the juvenile of a copy of the letter written by the attorney, notifying the juvenile's parent/guardian that the juvenile has requested the attorney to represent him. The letter must contain language directing the parent/guardian to notify the institution or the court of juvenile jurisdiction, should the parent object to the representation and/or access to records; and
    - iii. receipt of postal "Proof of Mailing" verifying that the letter in Clause D.4.c.i. above has been mailed to the parent/guardian; and
    - iv. receipt of a written statement made by the attorney attesting that he/she has made efforts to contact the parent/guardian; and
    - v. at least 10 business days have elapsed since receipt by the institution of all documents listed in Clause D.4.c.i. through iv above, and the parent/guardian has not voiced an objection. Once the attorney client relationship is established whether through a consent form executed by the parent/guardian or through the provision of documents required in Clause D.4.c.i through v above, the documents shall be filed in the juvenile's case file at Clip 8. Establishment of the attorney client relationship shall also be entered in the JIRMS.

5. Information on a particular juvenile may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. counsel for a juvenile in a delinquency matter;
- f. district attorneys;
- g. *law enforcement agencies*;
- h. Department of Public Safety and Corrections personnel, including legal representatives and student workers;
- i. appropriate governmental agencies or public official, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information if not reasonably available through any other means; and
- j. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of delinquent offenses, as well as information regarding escapes may be released to *law enforcement agencies* without special authorization.

7. The secretary or his designee may approve the reading of information to the following:

- a. social services agencies assisting in the treatment of juvenile;
- b. appropriate governmental agencies or officials;
- c. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or being directly involved in the hiring of, the juvenile under the following conditions, when:

- a. it appears that the withholding of the information would be to the juvenile's disadvantage;
- b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the juvenile;
- c. the requested information is not reasonably available through other means;
- d. the juvenile or his parent or guardian has given written consent for the release of information.

#### E. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular juveniles should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

#### F. Subpoenaed Records

1. Whenever the records of a juvenile are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the

party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

a. the information is not relevant to the proceedings; or

b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or

c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

G Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to party requesting information.

H. Access to and Release of Medical Records. Refer to Department Regulation No. B-06-001J "Health Care" and LSUHSC JCP Policies J/HC-RT 02-01 and 05-01 for specifics governing access to and release of medical records.

I. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody or under the supervision of the department, the department shall have access to information and records under the control of any state or local agency which is reasonably related to the rehabilitation of the juvenile.

J. Juvenile Access to Records. Information contained in the juvenile's record shall be confidential and shall not be released to him except in accordance with the following.

1. A juvenile may, upon request, have access to his JIRMS Master (JPRNMA); a time computation worksheet; any court documents that are related to his incarceration; disciplinary reports; custody classification/reclassification and case plan.

2. A juvenile shall not have access to another juvenile's record.

3. The following is a list of additional information that will not be accessible to the juvenile (This is not an exhaustive list.):

- a. disposition reports;
- b. social history;
- c. information revealing or tending to reveal the identity of a confidential informant;
- d. unusual occurrence reports;
- e. admission summary;
- f. correspondence from any non-corrections source directly solely to institutional officials;
- g. correspondence or inquiries originated by institutional personnel;

h. investigations conducted by non-departmental agencies (district attorney, state police, FBI, etc.);

i. progress notes;

j. progress reports to the court;

k. investigations conducted by Corrections Services; and

l. non-disciplinary court-related institutional investigations.

4. Each institution shall establish procedures for juveniles to follow when requesting copies of documents from their records and the fees charged for such copies.

K. Information Requests. Verbal requests to the department for information may be acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

L. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

M. Consent for Release of Initial Information to Attorney

#### CONSENT FOR RELEASE OF INITIAL INFORMATION TO ATTORNEY

My name is \_\_\_\_\_. My date of birth is \_\_\_\_\_. I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at \_\_\_\_\_ Correctional Center for Youth.

I talked and met with \_\_\_\_\_, an attorney at law. I want this attorney and the law firm \_\_\_\_\_ to have copies of my JIRMS Master (JPRNMA), disciplinary reports for the quarter, court documents, time computation worksheet, custody classification/reclassification for the two preceding quarters, and a listing of programs I have completed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

N. Statement of Representation and Release of Records

#### STATEMENT OF REPRESENTATION AND RELEASE OF RECORDS

My name is \_\_\_\_\_. My date of birth is \_\_\_\_\_. I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at \_\_\_\_\_ Correctional Center for Youth.

I want to have \_\_\_\_\_, an attorney at law, represent me.

I give my consent for my record to be copied or looked at by this attorney. This includes records contained in my medical file, mental health information and social history.

I understand that if I want to release certain records to my attorney I must waive my rights of confidentiality specifically as to those records.

\_\_\_\_\_ By placing my initials here I am confirming that I want to waive my rights as to psychological and psychiatric

documents, including but not limited to evaluations, reports and progress notes.

\_\_\_\_\_ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy my **education** records.

\_\_\_\_\_ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **alcohol/drug treatment** information which might be in my record.

\_\_\_\_\_ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **HIV/AIDS** information which might be in my record.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

#### O. Parent/Guardian Consent to Release of Juvenile Records

##### PARENT/GUARDIAN CONSENT TO RELEASE OF JUVENILE RECORDS

I, \_\_\_\_\_, parent/guardian of \_\_\_\_\_, a juvenile in the custody of the Louisiana Department of Public Safety and Corrections, do hereby give my consent to release the records of my child to \_\_\_\_\_, the attorney representing him/her.

I hereby authorize the above-named attorney to view/receive copies of my child's records. I understand that included in my child's records are social, family -history and medical/mental health information.

Further, I have initialed below where it is my intention to waive my child's confidentiality and specifically authorize release to his/her attorney the following named documents.

\_\_\_\_\_ By placing my initials here I am confirming that I intend to waive my child's rights as to psychological and psychiatric documents, including but not limited to evaluations, reports and progress notes.

\_\_\_\_\_ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy my child's **education** records.

\_\_\_\_\_ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **alcohol/drug abuse treatment** information which might be in my child's record.

\_\_\_\_\_ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **HIV/AIDS** information which might be in my child's record.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.12, 15:840.1, 15:909, 39:241, C.Cr.P. Art. 875, and Ch.C.Art. 412.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 30:77 (January 2004).

Richard L. Stalder  
Secretary

0401#047

#### RULE

##### Department of Public Safety and Corrections Corrections Services

##### Youth Placement Review Process (LAC 22:I.312)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), and in order to comply with the Legislative mandates in Act 1225 of the 2003 Regular Session, the Department of Public Safety and Corrections, Corrections Services, has adopted the Youth Placement Review Process, Department Regulation No. B-02-012, effective September 15, 2003.

#### Title 22

##### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

##### Part I. Corrections

##### Chapter 3. Adult and Juvenile Services

##### Subchapter A. General

##### §312. Youth Placement Review Process

A. Purpose. To establish the secretary's policy regarding periodic placement reviews of all youth in the custody of the department in order to determine whether the youth is placed in the least restrictive placement most appropriate to their needs and consistent with the circumstances of the case and the protection of the best interests of society and the safety of the public within the state.

B. Applicability. Assistant Secretary of the Office of Youth Development, wardens of juvenile facilities, Probation and Parole Director/Juvenile, and Probation and Parole District Managers.

C. Policy. Notwithstanding the provisions of any other regulation to the contrary, it is the secretary's policy, in accordance with R.S. 15:902.3, to authorize a periodic placement review process whereby all youth in the department's custody are screened in a multi-disciplinary placement review process. Following an initial review of all custody cases, the review for secure care shall occur no less than quarterly and in conjunction with custody reclassifications. For non-secure programs, the review shall occur in conjunction with semi -annual placement reviews or upon successful completion of the placement program. The review will determine whether the youth is placed in the setting most appropriate to their needs consistent with public safety interests, based upon a formal criteria established through department policy.

##### D. Definitions

*Adjudication?* after the presentation of evidence, or the entering of a plea, the entering of a judgment by the court which indicates whether the facts as alleged in the petition forming the basis of the action have been proven, i.e.

whether the family is in need of services or the child committed the delinquent act.

*Aftercare?* the control, supervision and care exercised over a youth upon exit from a secure facility or non-secure residential program into the community.

*Louisiana Children's Code Article 897.1?* requires that juveniles who are adjudicated delinquent for any of six most serious violent crimes (first degree murder, second degree murder, aggravated rape, aggravated kidnapping, armed robbery, and treason) must remain in a secure environment until the disposition ends. Except for armed robbery, dispositions rendered under provisions of this Article must extend until the 21st birthday.

*Fourteen Legal Days?* fourteen calendar days except when the 14th day ends on a weekend or legal holiday. When this occurs, the period extends to the close-of-business on the next day that is not a weekend or legal holiday. The 14-day timeframe begins the day after the filing of a legal document with the court.

*Non-Secure Non-Residential Program?* provides rehabilitative services to a youth who resides at home. The youth may receive the services in his home or at a central location to which he reports daily. Youth served may be in custody or on probation or parole.

*Non-Secure Residential Program?* provides housing, supervision and rehabilitative care for youth in the custody of the department primarily between the ages of 12-17. These facilities are usually characterized by a lack of physical security such as perimeter fences, security locks and controlled access to the facility.

*Secure Care?* facilities for adjudicated delinquents providing treatment and education characterized by facility design including such things as perimeter fences, security locks, supervision, and staff control that restricts on a 24-hour basis the ability of residents to enter or leave the premises.

*YouthCARE?* system wide positive behavior management program based upon principals of adolescent growth and development.

E. Placement review process of non-secure care youth

1. Youth in non-secure residential programs will be reviewed to determine the appropriateness of transition to a less restrictive setting. Screening criteria to be used in identifying youth to be reviewed are as follows:

- a. in a residential program five months or more; or
- b. FINS adjudication regardless of length of time in a residential program.

2. A review team in each Probation and Parole district office will review cases which meet the above criteria. The review team will consist of, but not be limited to, the following individuals:

- a. district manager;
- b. residential facility representative;
- c. placement officer from district of origin;
- d. treatment provider as necessary;
- e. unbiased individual;
- f. youth; and
- g. youth's parent/guardian.

3. The review will consist of discussion and evaluation of the youth's progress and needs in the areas of:

- a. educational/vocational needs/progress;
- b. medical concerns;

- c. mental health concerns;
- d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;
- e. behavioral concerns;
- f. home environment;
- g. review of community risk assessment;
- h. aftercare plans;
- i. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- j. availability of services to address needs, especially special needs youth;
- k. most recent case staffing findings; and
- l. availability of services in the community.

4. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS district office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
- b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
- c. aftercare plan.

5. The court will have fourteen legal days to do one of the following:

- a. make no response during the fourteen day period, in which case the District Office shall proceed with the recommendation;
- b. reject the recommendation and deny the motion;
- c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
- d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

6. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

7. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include the results of the review and the rationale for the recommendation.

F. Placement Review Process of Secure Care Youth

1. Youth currently in secure care will be reviewed to determine the appropriateness of a transfer to a less restrictive setting. The placement criteria process will be conducted at each facility through a multi-disciplinary team activity that will take into consideration multiple aspects of the youth's classification profile to determine if the youth is placed in the most appropriate setting.

2. The team will be composed of the following individuals:

- a. deputy warden, chairperson;
- b. education;
- c. dorm security;
- d. program manager;
- e. youth's case manager;
- f. LSUHSC staff (if needed);
- g. treatment provider (if needed);
- h. DYS representative (via phone conference);
- i. youth;
- j. youth's parent/guardian(s) (in person, via phone conference, and/or prior interview).

3. The multi-disciplinary review process will include a thorough review and assessment of the youth's needs, strengths and weaknesses. At a minimum, the multi-disciplinary team will consider the following prior to recommending placement:

- a. educational/vocational needs/progress;
- b. medical concerns;
- c. mental health concerns;
- d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;
- e. behavioral concerns;
- f. level of participation in YouthCARE;
- g. home environment;
- h. custody level (both prior and present);
- i. review of community risk assessment;
- j. proposed aftercare/release plans;
- k. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- l. availability of services to address needs, especially special needs youth; and
- m. most recent secure custody screening document (must have been done within the last year).

4. A schedule of the multi-disciplinary review activities will be issued by the deputy warden and disseminated to all department heads and team members. In an effort to better promote parental/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the multi-disciplinary activity. If any member of the multi-disciplinary team is not represented at the staffing, written comments or reports shall be used in the staffing to ensure education, medical, mental health, recreation and security activities are considered.

5. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS District Office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS office for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
- b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
- c. aftercare plan.

6. The court will have fourteen legal days to do one of the following:

- a. make no response during the fourteen day period, in which case the district office shall proceed with the recommendation;
- b. reject the recommendation and deny the motion;
- c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
- d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

7. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

8. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include results of the review and the rationale for the recommendation.

G Quality assurance. A copy of all screening forms, as well as multi-disciplinary team review forms, are to be maintained for a period of three years as a component of system quality assurance.

H. Procedures. Refer to Attachment A for Risk Screening Document and Attachment B for Secure Screening/Data Collection Form.

I. The effective date of this regulation is September 15, 2003.

D.R. # B-02-012  
Attachment A  
(1 of 6)

Office of Youth Development  
Risk Screening Document

Offender: \_\_\_\_\_ Date of Current Rating: \_\_\_\_\_ JIRMS# \_\_\_\_\_  
Most Serious Present Adj. Offense: \_\_\_\_\_ Date of Disposition: \_\_\_\_\_

|    |  |              |
|----|--|--------------|
| 1. | <u>Age at First Adjudication</u>                                       | <u>Score</u> |
|    | Age 12 or younger  | (10)         |
|    | Age 13   | (07)         |
|    | Age 14   | (05)         |
|    | Age 15 or older  | (02)         |
| 2. | <u>Severity of Present Adjudicated Offense</u>                         |              |
|    | High Severity: L. R. S. 14.2, and Ch. C. Art 897.1                     | (10)         |
|    | Moderate Severity: All other felonies                                  | (06)         |
|    | Low Severity: All misdemeanors and FINS                                | (03)         |
| 3. | <u>Most Serious Prior Adjudicated Offense</u>                          |              |
|    | High Severity (see above)  | (05)         |
|    | Moderate Severity (see above)  | (03)         |
|    | Low Severity (see above)   | (01)         |
|    | No Prior Adjudicated Offense record                                    | (00)         |
| 4. | <u>Number of Prior Adjudications</u>                                   |              |
|    | Four or more Felony adjudications                                      | (10)         |
|    | Three Felony or four or more Misdemeanor offenses                      | (05)         |
|    | Two Felony grade offenses or three Misdemeanor offenses                | (03)         |
|    | One Felony or two Misdemeanors/FINS adjudications                      | (01)         |
|    | One prior misdemeanor or one Prior FINS or No Prior Adjudications      | (00)         |
| 5. | <u>History of Probation or Parole Supervision or DPS&amp;C Custody</u> |              |
|    | Current  | (02)         |
|    | Within past 12 months  | (01)         |
|    | No Prior History of Supervision or Custody                             | (00)         |
| 6. | <u>Number of Out-of-Home Placements</u>                                |              |
|    | Non-Secure   | Secure       |
|    | Three or more or One or more   | (02)         |
|    | One or Two   | (01)         |
|    | No Prior Out-of-Home Placement(s)                                      | (00)         |
| 7. | <u>Prior Escapes or Runaways</u>                                       |              |
|    | From a Secure facility (more than once)                                | (03)         |
|    | From a Secure facility (1) or Non-Secure (2 or more times)             | (02)         |
|    | From a Non-Secure facility once (1)                                    | (01)         |
|    | No Prior Escapes or Runaways   | (00)         |
|    | Total Score  | _____        |

Supervision Level based on above score:

|        |              |
|--------|--------------|
| Level  | Assessment   |
| Red    | 12 and above |
| Yellow | 11 and Lower |

## Administrative/Case Review Report

### Identifying Information

Youth's Name:  
Youth's Date of Birth:  
Petition Number(s) for CNF or CND:

Placing District:  
Placing District PPO:

### Review

Date of Initial Placement:  
Date of Initial Plan:

Date of Last Review: N/A  
Date of Current Review:

### Facility Information

Name of Facility:  
Address:

Phone Number:

### Reason Youth Entered Care: Placement History:

### Judicial Determination

Was court recommendation regarding placement followed? ☐ Yes ☐ No

If no, why not?

Was Judicial Determination of Reasonable Efforts documented? ☐ Yes ☐ No

If no, why not?

### Criteria For Placement

Did the Psychological Evaluation recommend Non-secure Placement? ☐ Yes ☐ No

If no, explain:

### Change In Placement

Has there been a change in placement since the last review? ☐ Yes ☐ No

If yes: Date of Current Placement:

Date Written Notification sent to Court:

Explain Reason for Change in Youth's Placement:

### Appropriateness of Placement

Discuss appropriateness of services provided at this facility, which match this youth's specific needs, as identified in the Psychological Evaluation or Individual Service Plan:

Is Facility a Safe Setting in the best interests and needs of the youth? ☐ Yes ☐ No

Is the Facility Licensed by DSS, Bureau of Licensing? ☐ Yes ☐ No

If no, explain:

Is the Facility monitored by the Office of Youth Development as per Department Regulation C-05-003?

☐ Yes ☐ No

Date of last monitoring:

### Close Proximity



Is this the closest facility available, which best meets the needs of this youth? ☐ Yes ☐ No

If no, explain:

**Least Restrictive**

Is this the least restrictive environment available which best meets the youth's specific needs?

☐ Yes ☐ No

If no, explain:

**Identify Previous Need Areas**

- |  |  |
|--|--|
| <input type="checkbox"/> Family              | <input type="checkbox"/> Peer Relationships        |
| <input type="checkbox"/> Drug Use            | <input type="checkbox"/> Employment                |
| <input type="checkbox"/> Alcohol Use         | <input type="checkbox"/> Sexual History            |
| <input type="checkbox"/> Emotional Stability | <input type="checkbox"/> Physical Health           |
| <input type="checkbox"/> School/Education    | <input type="checkbox"/> Independent Living Skills |

**Current Need Areas**

**Family**

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

**Drug Use**

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

**Alcohol Use**

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

**Emotional Stability**

Youth's Mental Health Diagnosis:

Youth's Current Status:

Discussion of Youth's Psychotropic Medications:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

**School/Education**

Name of School:      Type:

Is the current IEP (Individual Education Plan) in the file? ☐ Yes ☐ No

Youth's Current Status - Performance/Grades:

Youth's Current Status - Attendance:

Youth's Current Status - Behavior/Discipline:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

#### **Peer Relationships**

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

#### **Employment**

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

#### **Sexual History**

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

#### **Physical Health**

Has there been a change in Medical/Dental Providers since last Kid Med form? ☐ Yes ☐ No

Youth's Current Status:

Discussion of Youth's Non-Psychotropic Medications and Immunizations in last six months:

Is the current Immunization Record in the file? ☐ Yes ☐ No

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

#### **Independent Living Skills** (if youth is/will be 16 before next review)

Youth's Current Status:

Briefly Describe the Independent Living Services Provided by the Facility:  
Discussion of Progress Towards Meeting Goals:  
Measurement of Progress:

**Measurement of Progress**

Number of Need Areas Completed:  
Number of New Need Areas:  
Number of Remaining Need Areas:

**Permanency Plan**

Hearing Scheduled: at  
Identify the Permanent Plan:  
Return to Parent/Guardian:  
Place with a relative:  
Emancipation/Independent Living: Explain why:  
Date Staffed with OCS for Termination of Parental Rights Prior to 11 Month Review:  
If not, explain:

**Visitation Plan**

Is Visitation between the youth and Permanent Plan appropriate? ☐ Yes ☐ No

If No, why?

Has the facility Visitation Plan been discussed with the Permanent Plan? ☐ Yes ☐ No

If No, why?

Does the youth participate in Home Passes with the Permanent Plan? ☐ Yes ☐ No

Discussion of the Home Passes:  
Discussion of Family Visits at Facility:

**Panel's Recommendation regarding Continued Need for Placement**

The Compelling Reason why this youth continues to require placement:  
**Projected Release Date:**

**Comments**  
Youth:

Family:

Facility:

PPO:

Other:

Signatures are attached.

|                                | Signatures | Notified   | Attended   | Date |
|--------------------------------|------------|--|--|------|
| Youth                          |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Parent/Guardian                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Parent/Guardian                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Facility Representative        |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| PPO                            |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Supervisor/DM                  |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Program Specialist             |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Others:                        |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
|                                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
|                                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
|                                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
|                                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
|                                |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |
| Administrative Review Panelist |            | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |      |

If any party failed to be notified of review, explain:  
If any party has not, or refuses to sign, explain:

D.R. #B-02-012-Attachment B

### SECURE SCREENING/DATA COLLECTION FORM

**YOUTH:** \_\_\_\_\_ **JIRMS:** \_\_\_\_\_ **DORM:** \_\_\_\_\_

**HISTORY:** Prior and Present Custody Levels

|   |             |  |
|---|-------------|--|
| <u>Minimum</u> <u>Medium</u> <u>Maximum</u> | Date: _____ |  |
| <u>Minimum</u> <u>Medium</u> <u>Maximum</u> | Date: _____ |  |
| <u>Minimum</u> <u>Medium</u> <u>Maximum</u> | Date: _____ |  |

**Secure Custody Screening Document**

Total Score: \_\_\_\_\_ Date: \_\_\_\_\_

**OFFENSE:** \_\_\_\_\_ **FTD:** \_\_\_\_\_

**Is YOUTH 897.1?** ☐ Yes ☐ No

**DATE OF COMMITMENT:** \_\_\_\_\_ **DATE OF LAST QUARTERLY STAFFING:** \_\_\_\_\_

**NUMBER OF SCHEDULE B VIOLATION FOUND TO BE VALID** \_\_\_\_\_

**PRIOR MODIFICATIONS:** ☐ Yes ☐ No

*If yes, provide narrative (include date, specifics about modification, response by court)  
Attach a copy*

\_\_\_\_\_

\_\_\_\_\_

**Is YOUTH MAKING ADEQUATE PROGRESS IN MEETING GOALS OF IIP?** ☐ Yes ☐ No

**Explanation of Response:**

\_\_\_\_\_

\_\_\_\_\_

**ONE ON ONE INTERVIEW WITH YOUTH:** **DATE:** \_\_\_\_\_

**SUMMARY OF MEETING :**

\_\_\_\_\_

\_\_\_\_\_

**PHONE CONTACT WITH PARENT:** ☐ Yes ☐ No

**PHONE NUMBER** \_\_\_\_\_ (If no phone, was notification of staffing sent to parent/guardian?)

**PARENTAL CONCERNS:**

\_\_\_\_\_

\_\_\_\_\_

*Case Manager*

*Date*

**Note:** *If the youth is an 897.1 youth, has less than 45 days to his/her full term date, had 10 or more validated schedule B violations, or has been in secure care for less than 90 days **do not complete** the CRM form. For all other youth, the CRM form is to be completed prior to the multi-disciplinary staffing.*

AUTHORITY NOTE: Promulgated in accordance with Act 1225 of the 2003 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 30:80 (January 2004).

Richard L. Stalder  
Secretary

0401#057

## **RULE**

### **Department of Public Safety and Corrections Gaming Control Board**

Promotions (LAC 42:VII.2953; IX.2922; and XIII.2953)

The Louisiana Gaming Control Board amends LAC 42:VII.2953, IX.2922, XIII.2953 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 42**

#### **LOUISIANA GAMING**

### **Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming**

#### **Chapter 29. Operating Standards**

#### **§2953. Promotions**

A. - D. ...

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000), amended LR 27:1555 (September 2001), LR 30:90 (January 2004).

#### **Part IX. Landbased Casino Gaming**

### **Subpart 1. Economic Development and Gaming Corporation**

#### **Chapter 29. Operating Standards Generally**

#### **§2922. Promotions**

A. - D. ...

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:1557 (September 2001), LR 30:90 (January 2004).

### **Part XIII. Riverboat Gaming**

#### **Subpart 2. State Police Riverboat Gaming Division**

#### **Chapter 29. Operating Standards**

#### **§2953. Promotions**

A. - D. ...

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board LR 27:1558 (September 2001), LR 30:90 (January 2004).

Hillary J. Crain  
Chairman

0401#056

## **RULE**

### **Department of Revenue Policy Services Division**

Withholding by Professional Athletic Teams  
(LAC 61:I.1520)

In accordance with the Administrative Procedure Act, R.S. 47:1511 and R.S. 39:100.1(D) the Secretary of Revenue hereby adopts the following Rule.

This Rule is necessary to implement recent legislative changes to the Sports Facility Assistance Fund and to allow the Department of Revenue to effectively and efficiently attribute the income tax collected from nonresident professional athletes to the Sports Facility Assistance Fund.

Act 1203 of the 2001 Regular Session enacted R.S. 39:100.1, which created a fund in the state treasury called the Sports Facility Assistance Fund (the Fund). Each year, the treasurer must pay into the Fund an amount equal to the

income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the Fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this Rule is to enable the Department of Revenue to collect income tax from nonresident professional athletes and to accurately attribute the income tax collected to the fund.

Act 119 of the 2003 Regular Session enacted R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1. This Rule will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members. It will also clarify that these teams are required to follow current withholding provisions for their team members who are residents of Louisiana.

## **Title 61**

### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 15. Income: Withholding Tax.**

#### **§1520. Withholding by Professional Athletic Teams**

##### **A. Definitions**

*Nonresident?* any person not domiciled, residing in, or having a permanent place of abode in Louisiana.

*Professional Athletic Team?* a member team of a professional sports association or league.

*Team Member?* shall include those employees of a *professional athletic team* who are active players, players on the disabled list, and any other persons required to travel and who travels with and perform services on behalf of a *professional athletic team* on a regular basis. This definition includes, but is not limited to, coaches, managers, and trainers.

##### **B. Withholding Requirement for Nonresident Team Members**

1. *Professional Athletic Teams* not Domiciled in Louisiana

a. Any *professional athletic team* that is not domiciled in Louisiana and that pays compensation to a *nonresident* individual for services rendered to the team within Louisiana shall be deemed to be an employer making payment of wages and shall be required to withhold Louisiana individual income tax from that portion of the compensation for services rendered to the team attributable to "duty days" spent in Louisiana, as defined in LAC 61:I.1304(I), for each game played in Louisiana.

b. This Section does not alter the *professional athletic team's* withholding requirements for *team members* who are residents of Louisiana. The withholding for these *team members* must be as provided for in R.S. 47:111.

2. *Professional athletic teams* with a Louisiana domicile. *Professional athletic teams* that are domiciled in Louisiana must withhold for all *team members* as provided for in R.S. 47:111.

3. This Section does not alter any *professional athletic team member's* requirement to file the income tax schedule required under LAC 61:I.1305.

C. Rate of Withholding. The withholding tax rate under this Section shall be 4.2 percent of the compensation attributable to "duty days" spent in Louisiana.

D. Due Date of Withholding Return and Payment. A withholding return and payment must be submitted for each game played in Louisiana. The withholding return and payment must be submitted on or before the last day of the month following the month in which the game was played.

##### **E. Account Numbers**

1. Each *professional athletic team* not domiciled in Louisiana will be issued an identification number by the department.

2. The *professional athletic team* filing the withholding return must be clearly identified by name, address and Louisiana revenue account identification number. The team's federal employer identification number will not be accepted as a substitute. The withholding return will not be considered complete unless the team's Louisiana revenue account identification number is on the return.

##### **F. Annual Reconciliation Schedule**

1. All *professional athletic teams* that pay compensation to a *nonresident* individual for services rendered to the team within Louisiana must submit an annual withholding reconciliation schedule that includes a list of all *team members* who received Louisiana source income during the year. The list must include the following information:

a. the name, social security number, and permanent physical address of all *team members* regardless of residency, and

b. for each *nonresident team member*:

i. the total number of duty days spent with the team during the taxable year;

ii. the number of duty days spent in Louisiana;

iii. the total amount of compensation for services rendered to the team;

iv. the amount of compensation for services rendered to the team in Louisiana; and

v. the total amount deducted and withheld under this Section.

2. The annual reconciliation schedule is due on or before the first business day following February 27 of each year for the preceding calendar year. The secretary may grant a reasonable extension of time, not exceeding thirty days for the filing of the annual reconciliation schedule. The annual reconciliation schedule is not considered to be remitted until it is complete.

3. The permanent address listed on the annual reconciliation schedule will be presumed to be the residence of the *team member* for purposes of administering the Sports Facility Assistance Fund.

##### **G. Penalty for Failure to Timely Remit Schedules and Payments**

1. The following penalties will be imposed for failure to timely remit these returns, schedules, and payments.

a. In the case of failure to timely remit any return or schedule required by this Section, the penalty shall be five hundred dollars for the first such failure, one thousand dollars for the second such failure within the three-year period beginning on the due date of the first delinquent return or schedule, and two thousand five hundred dollars for each subsequent failure within the three-year period



beginning on the due date of the first delinquent return or schedule.

b. In the case of failure to timely remit any payment required by this Section, the penalty shall be five percent of the total payment due if the delinquency is for not more than thirty days, with an additional five percent for each additional thirty days or fraction thereof during which the delinquency continues, not to exceed fifty percent of the amount due.

H. Exception to Withholding Requirement under this Section

1. The secretary may grant an exception to withholding requirements under this Section to any *professional athletic team* not domiciled in Louisiana that agrees in writing to file team composite returns and remit composite payments as provided in LAC 61:I.1304(J).

2. The composite return and composite payment will be considered to be a return and payment required by the secretary to administer the provisions of the Sports Facility Assistance Fund.

3. This agreement will be binding on the secretary and the *professional athletic team* until it is revoked. Either party may revoke this agreement.

AUTHORITY NOTE: Adopted in accordance with R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, and R.S. 47:1602.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:91 (January 2004).

Cynthia Bridges  
Secretary

0401#036

## **RULE**

### **Department of Social Services Bureau of Licensing**

#### **Adult Residential Care Facility (LAC 48:I.8821)**

The Department of Social Services, Office of the Secretary, Bureau of Licensing, has amended the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification, effective February 1, 2004.

This revision is mandated by Act 301 of the 2003 Regular Session requiring that all adult residential care homes provide for resident support during times of emergency and natural disasters.

## **Title 48**

### **PUBLIC HEALTH? GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

#### **Chapter 88. Adult Residential Care Home**

##### **§8821. Resident Protection**

A. - F.3. ...

a. evacuation of residents to safe or sheltered areas. Facilities must maintain services for residents in the event of an emergency or natural disaster. No facility may order residents to vacate the facility in advance of an approaching weather event, natural disaster or other emergency;

F.3.b. - H.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2161, and Act 301 of the 2003 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Bureau of Licensing, LR 24:2326 (December 1998), LR 30:92 (January 2004).

Gwendolyn P. Hamilton  
Secretary

0401#060

## **RULE**

### **Department of Social Services Office of the Secretary Bureau of Licensing**

#### **Transitional Living (LAC 48:I.Chapter 62)**

The Department of Social Services, Office of the Secretary, Bureau of Licensing has amended the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification. These standards are being enacted per Act 726 of the 2001 Regular Session of the Legislature of Louisiana to include the Transitional Living Program. This Rule is mandated by R.S. 46:1451 et seq., and is effective February 1, 2004.

## **Title 48**

### **PUBLIC HEALTH? GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

#### **Chapter 62. Transitional Living**

##### **§6201. Purpose**

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the State of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004).

##### **§6203. Authority**

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004).



## **§6205. Waivers**

A. The secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

## **§6207. Application for Licensure**

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services  
Bureau of Licensing  
P. O. Box 3078  
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of \$200 for each transitional youth residence caring for 6 or fewer youths; \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals  
P. O. Box 2944  
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offense. The Department of Social Services may file suit in the District Court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

## **§6209. Definitions**

*Abuse?* the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual *abuse*, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

*Administrator?* the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

*DSS?* the Department of Social Services.

*Documentation?* written evidence or proof, signed and dated.

*Human Services Field?* psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

*Shall or Must?* indicates mandatory standards.

*Transitional Youth Residence?* any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than 20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

*Transitional Youth Residence Program?* a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

*Transitional Living?* a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

## **§6211. Inspections**

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

## **§6213. General Requirements**

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

### **§6215. Governing Body**

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director;
9. meet with designated representatives of DSS whenever required to do so;
10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and
11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

### **§6217. Accounting**

A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the

facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

### **§6219. Administrative Files**

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;
4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

### **§6221. Program Description**

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g.: career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g.: money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following: vocational assessment or training; GED

classes; preparation for college entrance exams; driver's education, if appropriate; counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

#### **§6223. Records**

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

#### **§6225. Confidentiality and Security of Files**

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

#### **§6227. Staffing Requirements**

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at

least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;
6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

#### **§6229. Staff Plan and Practices**

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

#### **§6231. Personnel File**

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;
9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

#### **§6233. Orientation**

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;
2. instructions in the specific responsibilities for the employee's job;
3. implementation of the transitional living plan;
4. emergency and safety procedures including medical emergencies;
5. detecting and reporting suspected abuse and neglect;
6. reporting critical incidents;
7. rights of youth;
8. crisis de-escalation and management of aggressive behavior;
9. assistance with self-administration of medications;
10. universal precautions;
11. methods of facilitating youth development training;
12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

#### **§6235. Training**

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:0996 (February 2004).

#### **§6237. Staff Communications**

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

#### **§6239. External Professional Services**

A. A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

#### **§6241. Admission Policy**

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement.

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

#### **§6243. Service Agreement**

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;
6. specification of financial arrangements including any fees to be paid by the youth;

7. authorization to care for the youth;
8. authorization for medical care;
9. attendance and absences from the provider to also include curfew times; and
10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

#### **§6245. Service Planning**

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;
2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);
3. recognizing when to contact a physician;
4. money management, budgeting, and consumer awareness (i.e. paying bills, shopping, food management, sources of income, credit);
5. self-administration of medication;
6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;
7. career planning/career interests;
8. use of transportation (i.e. ability to access public transportation, learning to drive, obtaining insurance);
9. social skills;
10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);
11. vocational/job skills/job seeking skills (i.e., employment experience, training);
12. identifying community resources;
13. education (i.e., current grade level; education goals/expectations/plans);
14. locating housing;
15. problem solving/decision making;
16. time management (punctuality and attendance);
17. communication skills;
18. parenting skills;
19. legal issues, knowledge of legal rights; and
20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;
2. time-limited, measurable objectives addressing training in skill areas identified as needs;
3. the type and frequency of supervision needed;
4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;
5. the life skills and the criteria necessary for achieving a successful discharge; and
6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:97 (January 2004).

#### **§6247. Youth's Case Record**

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;
2. other identification data including court status and legal status, identifying who is authorized to give consent;
3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. the service agreement;
5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;
6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;
7. assessment of the youth's independent living skills;
8. a copy of the youth's individual service plan and any modifications or updates of the service plan;
9. monthly progress reports;
10. the names, addresses and phone numbers of the youth's physician and dentist;
11. psychological and psychiatric evaluation, if applicable;
12. dates of admission and discharge;
13. signed acknowledgement of rights and grievance procedures; and
14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;
2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;
3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:97 (January 2004).

#### **§6249. Accounting for Youth's Money**

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan. The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004).

#### **§6251. Supervision and Support**

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004).

#### **§6253. Rights and Grievance Procedures for Youth**

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;

4. are actively and meaningfully making decisions affecting his/her life;

5. are allowed to have privacy;

6. are allowed visits to and from his/her family and friends;

7. are not required to work without compensation;

8. are treated with dignity and respect;

9. are provided due process;

10. have access to records, including information about their finances;

11. participate in self-directed service planning which is developed and modified timely;

12. are provided adequate and appropriate assistance in meal planning;

13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;

14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;

15. are provided access to professional and specialized services, as appropriate;

16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;

17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;

18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;

19. shall be free to consult with legal counsel of their choice;

20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004).

**§6255. Reporting of Critical Incidents and Abuse and Neglect**

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

B. A provider shall have comprehensive written procedures concerning abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect youth; and

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

**§6257. Behavior Management**

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

**§6259. Transportation**

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

**§6261. Physical Environment**

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

**§6263. Capacity**

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

#### **§6265. Emergency Procedures**

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

1. instruction in evacuation from the living situation;
2. instruction in contacting police, fire and other emergency services; and
3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004).

#### **§6267. Food Service**

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004).

#### **§6269. Discharge**

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.

C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

1. a summary of services provided during involvement in the program;

2. a summary of growth and accomplishments during involvement;

3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004).

Gwendolyn P. Hamilton  
Secretary

0401#061

### **RULE**

#### **Department of Treasury Teachers' Retirement System**

##### **Management of DROP Accounts (LAC 58:III.503)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana has amended policies governing the Management of DROP Accounts, LAC 58:III.503 as follows.

#### **Title 58**

#### **RETIREMENT**

##### **Part III. Teachers' Retirement System of Louisiana Chapter 5. Deferred Retirement Option Plan (DROP)**

##### **§503. Management of DROP Accounts**

A. - B.2. ...

3. interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily;

a. members eligible to enter DROP prior to January 1, 2004, will have interest deposited to their DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement System's Actuarial Committee. This interest will be equal to the approved actuarially realized rate of return less an administrative fee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on any interest only balance. *Liquidated* means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted;

b. members eligible to enter DROP on or after January 1, 2004, will have their DROP funds transferred to a Liquid Asset Money Market Account after the termination of DROP participation. Interest will be deposited monthly based on the interest earned on the Liquid Asset Money Market Account less an administrative fee. Final payouts of DROP accounts will have interest posted through the date of the payment. Quarterly statements issued will reflect the interest earned and posted;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.



HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999), LR 30:100 (January 2004).

Bonita B. Brown, CPA  
Director

0401#062

## **RULE**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Removal of Abandoned Crab Traps (LAC 76:VII.367)**

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(M).

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 3. Saltwater Sport and Commercial Fishery**

#### **§367. Removal of Abandoned Crab Traps**

A. The use of crab traps shall be prohibited for a 16-day period from 6 a.m., February 28, 2004 through 6 a.m., March 14, 2004, within that portion of Lafourche and Terrebonne Parishes as described below.

1. From a point originating from the southern boundary of the Pointe-aux-Chenes Wildlife Management Area at the South Lafourche Hurricane Protection Levee, thence west along the southern boundary of the Pointe-aux-Chenes Wildlife Management Area to the Humble Canal, thence west along the northern shoreline of Humble Canal to its intersection with Bayou Terrebonne, thence south along the western shoreline of Bayou Terrebonne to its intersection with Bush Canal, thence west along the northern shoreline of Bush Canal to its intersection with Bayou Little Caillou, thence north along the eastern shoreline of Bayou Little Caillou to the Gulf South/South Coast Natural Gas Pipeline in Chauvin, thence northwest along the Gulf South/South Coast Natural Gas Pipeline to LA Highway 57, thence south and then southeast along LA Highway 57 to its intersection with LA Highway 56, thence south along LA Highway 56 to Latitude 29° 17'00" N, thence east along Latitude 29° 17'00" N to LA Highway 1, thence north along LA Highway 1 to the South Lafourche Hurricane Protection Levee, thence north along the South Lafourche Hurricane Protection Levee and terminating at the southern boundary of the Pointe-aux-Chenes Wildlife Management Area.

B. The use of crab traps shall be prohibited in a portion of Vermilion Bay as described later for a 14-day period beginning at 6 a.m. five days prior to the opening of the 2004 Spring inshore shrimp season in Vermilion Bay and ending at 6 a.m. nine days following the opening of the 2004 Spring inshore shrimp season in Vermilion Bay. In the event that the Wildlife and Fisheries Commission approves opening the 2004 Spring inshore shrimp season in Vermilion Bay before a five-day minimum notice can be provided for the crab trap closure, then the use of crab traps shall be prohibited for a nine-day period beginning at 6 a.m. on the opening of the 2004 Spring inshore shrimp season in Vermilion Bay and ending at 6 a.m. nine days following the opening of the 2004 Spring inshore shrimp season in Vermilion Bay as described below.

1. From a point originating from the intersection of the Acadiana Navigational Channel and the Gulf Intracoastal Waterway, thence southwest along the Acadiana Navigational Channel red buoy line to the red navigational marker number 12 on the Marsh Island shoreline near Southwest Pass, thence south along the eastern shore of Southwest Pass to a position which intersects the inside/outside shrimp line as defined in R.S. 56:495, thence west along the inside/outside shrimp line to the western shore of Freshwater Bayou, thence north along the western shore of Freshwater Bayou to its intersection with the Gulf Intracoastal Waterway, thence east along the northern shore of the Gulf Intracoastal Waterway to the intersection of the Gulf Intracoastal Waterway and the eastern shore of the Acadiana Navigational Channel.

C. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. For the winter closure only, crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas, however, no person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. However, nonserviceable traps may be possessed by a shrimp fisherman outside of the closed area when in compliance with R.S. 56:332. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(M).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004).

James H. Jenkins, Jr.  
Secretary

0401#045